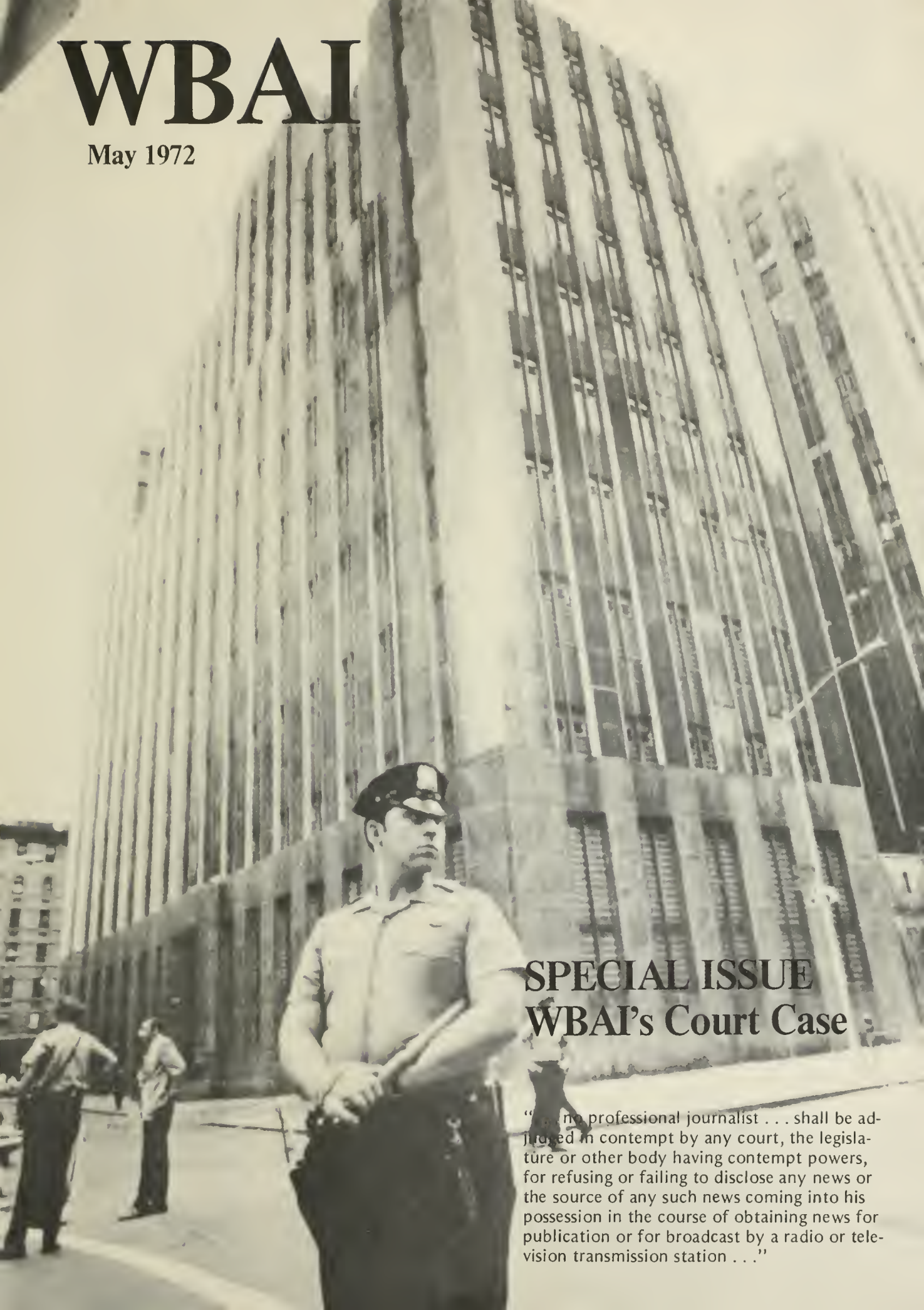
WBAI

May 1972



SPECIAL ISSUE
WBAI's Court Case

"... no professional journalist . . . shall be adjudged in contempt by any court, the legislature or other body having contempt powers, for refusing or failing to disclose any news or the source of any such news coming into his possession in the course of obtaining news for publication or for broadcast by a radio or television transmission station . . ."

On 44 Hours in Civil Jail

Excerpts from More: A Journalism Review, April '72

By Ed Goodman

Editor's note: *In October, 1970, WBAI-FM, the listener sponsored radio station in New York, broadcast some 30 hours of tapes made during a rebellion at the Manhattan House of Detention, also known as The Tombs. Last January, the New York District Attorney's office handed Goodman a subpoena asking for the tapes and the pertinent program logs. Goodman turned over the logs but has steadfastly refused to give up the tapes. In his defense, he quoted the First Amendment and New York Statute 79-h, which stipulates that a journalist may protect the privileged relationship between himself and his source. On Friday, March 3, Goodman was jailed on contempt charges for defying a State Supreme Court order to surrender the tapes. He kept the following diary (in which the names of all inmates have been changed) while imprisoned.*

FRIDAY

The Civil Hall is a curious institution, filled not only with no criminals but with people who are not even charged with crimes. Of the twelve male inmates here at present, I'm the only one who has been convicted of breaking a law. Though the jail has a reputation for housing those unable to pay alimony, in fact, it houses primarily "material witnesses". Material witnesses in jail are people who know something about a specific crime or who the DA believes know something and who lack the money to meet bail, which is set very high—from $30,000 to $50,000. The racial mix here reflects that of most jails. There are three whites, including myself. The rest are black, and there's one Puerto Rican.

I spend most of my first night talking with Louis. Louis is black, born and raised in Montgomery. He got into drugs at a tender age and in 1967, at 22, he sold a joint to a narc and was sentenced to fifty years in jail with bail set at $50,000. After 10 months in the Alabama State Penitentiary he escaped and had been hiding and staying "clean" ever since. One day as he was about to buy a hamburger, several men burst from a diner on the lower East Side after robbing it. Shortly afterwards, Louis was picked up and held as a material witness, though he claims he cannot identify the thieves. Of course, his record was discovered and after this case is completed he faces extradition to Alabama.

SUNDAY

Many of the guys here do not sleep much at night. They stay up till 3 or 4 A.M. and talk, play cards, listen to the radio, etc. Fortunately, I'm a heavy sleeper and so drifted off anyway. The guard woke us at 7:30 A.M. but only I got up. I was ready after about 9 hours. No one else budged except for Hector Rodriguez, who was about 40 and told me he has trouble sleeping. I noticed yesterday some poetry or an essay on Hector's bed and asked him if I could read it. At the time I asked, he was brushing his teeth and I believe my interest surprised him, but immediately he agreed. He handed me a carefully written poem called "I see", which he'd written the day before on two yellow legal sheets. It is a sad and beautiful poem about life in Harlem. It is filled with passion, anguish, sensitivity and a wondering about what might have been. I was moved by it and asked if he had more. He said he had a book full and would show me after breakfast. I thought about the enormous waste of human spirit and intelligence which we allow to continue in this country. This man, Hector, who can recreate his Harlem on a piece of paper, can't spell. He was never taught this simple tool. Yesterday he asked me how to spell *water*, *originally*, and *absolute*, so that he could complete a letter. I hope he'll let me borrow his work so that we can arrange for it to be read on WBAI. Had breakfast of french toast, juice and coffee and then scored two quick victories in ping-pong, beating Jack 21-14 and 22-20. Hammons said he's busy today but would talk to me about his case this evening and Hector asked me for my help in writing poetry. I said I wanted very much to read it but from what I'd seen he didn't need "help".

There's a lot of Attica political consciousness here among the black and Puerto Rican brothers. I feel very sorry for the black guards who are "brothers" on one level and for one moment and "pigs" on another level and for another moment. This morning there's a classic example of this. The prisoners, engaging in some ad hoc guerrilla theater, are trying to convince a young black guard to get booze for them. Again, boredom and depression are the enemy. There is absolutely no *program* here in the way of planned physical or intellectual activity. On good days, there's a handball court on the roof. On bad days, ping-pong, television, newspapers, radio, and so on.

There are about three dozen tattered paperbacks in the so-called library. Last night, Louis showed me a letter written by a recently departed Henry Fellows, addressed to the WNEW Action Reporter and signed by the seven inmates here at the time. It was never mailed. "Dear Sir", it begins:

> My name is Henry Fellows. I am being held prisoner in the Civil Jail as a material witness against my will. I cannot believe that my civil rights are not being violated according to the constitution. Because I have committed no crime nor aided or abetted no crime, I have cooperated with the DA fully in his investigations and willingly taken a lie detector test. My life is neither in danger nor will I flee yet I am held incommunicado. All my mail and phone calls must be approved by the DA yet the perpetrator of the offense is free to call or write who he pleases because he happens to be rich and can make a big deal and pursues his desires as he sees fit, even commit

Cover photograph by Steve Rose — LNS. Cover photograph of the Tombs and an excerpt from the New York Civil Rights Law, 79-h.

> another crime if he deems it necessary to his survival! I have served my country with my life and fought to preserve the so-called democratic, just way of life supposed to be equal to all men, poor or rich, black or white. Yet here I sit appealing to you with a letter I will probably have to sneak out somehow if I ever expect you to read it, then after you read it, what then? . . .

Hammons, who had been eyeing me skeptically since my arrival, made a conversational overture of sorts and so I seized the opportunity and switched to his table where just the two of us could talk. He told me a bit about himself, how he was introduced to drugs under tremendous social pressures at the age of 12. He punctuated his story by shoving his arms forward with palms up and pressing his elbows together. Needle marks pocked his arms from just above the wrists to just below the shoulders. There was no virgin skin left on either arm. He told me that the quickest, highest heroin trip could be had by introducing the needle directly into the jugular vein which he had done on several occasions. Hammons couldn't understand how a country that could send men to the moon couldn't get junk off the streets of Bedford-Stuyvesant. We agreed that when Howard Samuel's and Bobby Kennedy's children are strung out on heroin, then and only then will the problem be seriously attacked. Hammons had been arrested and jailed many times—mostly on drug related charges. Now 25, he had been in a number of "correctional" institutions, from the Brooklyn House of Detention to Clinton and others over the past decade. A drop-out after the sixth grade, he had been educated by his prison brothers, the obscure and the famous, such as George Jackson, Eldridge Cleaver and Malcolm X. He despaired that justice could be meted out in this white society to black men. He has been scarred too deeply, too frequently to harbor any hope. He feels that the prisons of this country are efficiently and unwittingly training a revolutionary cadre of black men. He has no illusions about victory. He expects that he will live to see a massive insurgency followed by genocide directed at black people. He says white people simply don't understand that for many black people, life and freedom are mutually exclusive. Death is freedom. Without radical social reform of the larger society which now introduces many blacks to prison in their teens, his prophecy is assured. It occurred to me that Hammons was doing a number on me, on whitey. I had seen him participate in cruel verbal games directed at the black guards. But I dismissed this notion. The sense of terrible urgency was in every hushed word he uttered. It was clear that he knew that, in my position, a visit to prison was bound to be brief and a once-in-a-lifetime experience. There was a sense of desperation. He had to seize this rare opportunity to speak to the Man, to cram years of his painful experience and his political conviction into a twenty minute luncheon, to speak with someone on the outside who might listen and tell others.

A bit numb, I returned to the recreation room after lunch and was challenged by Harry to some ping-pong. Flushed by two quick victories, 21-18 and 21-14, I returned to the dorm and *Up The Sandbox*. For some reason, the guards had not told me that my lawyers had called earlier and that my release was imminent, due to a writ of habeas corpus signed by a federal judge. However, the boredom in prison trains the inmates to be astute gazers out of windows. These guys notice the smallest variances in the life on West 37th Street, a new prostitute plying her trade, the appearance of late model cars, new faces on the local stick ball teams, etc. First there was one strange car, then another and by 1:30 P.M. it was clear that lots of people and media equipment were focusing on the front door of the Civil Jail. Still, no one had told me anything and it was not until I spied my wife on the street and yelled to her that I learned I was being released.

My brothers in prison were buoyed by the excitement of the media attention, happy for me and terribly jealous at the same time. I too, experienced a whole complex of emotions, excitement, relief, regret at leaving friends. I use the last advisedly, for though I was only inside that jail for 44 hours the quality of the experience was very intense. Jail generates brotherhood much more effectively than churches. I traded more visceral experience with these men in two days than with people I've know in many capacities for many years. The goodbyes were painful.

I opened the door to be greeted by a circus of faces—mostly media people with their arms outstretched, brandishing microphones. I tried to tell these people something about the issues as WBAI sees them and something about the cruelty of imprisonment, the desecration of the lives of the men inside. Lamentably and predictably, not a word I said about prison conditions or the tragedy of imprisoned material witnesses was included in any of the television or radio coverage that reached large audiences that evening. I thought about the sense of betrayal and the reinforcement of cynicism that the network versions of my exit would have on my fellow prisoners as they watched TV in the recreation room that night. There was a wonderful side to coming out, too, even after such a brief period. It was like acid trips I've read about. Colors were very bright. Faces were very beautiful. People were very kind. All the experiences of living were razor sharp. I was very, very high. I went home, washed up and returned to the station to begin the process which would take us beyond the strange theatre of incarceration to a consideration of the substantive constitutional questions which precipitated this episode.

Editor's note: *On March 15, Justice McNally signed an order, consented to by the District Attorney, staying the remainder of Goodman's sentence pending his appeal, which is scheduled to be heard in May.*

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An Interview with Neil Sheehan

Neil Sheehan is a Washington staff reporter for the New York Times. *He was interviewed by WBAI's News Director, Paul Fische*

WBAI: Why have you taken an interest in the WBAI case? What does it mean to the press in general?

SHEEHAN: I have a natural interest in the case, obviously, because it involves the extension of First Amendment protection to radio, which is a form of protection that the written press has, although not formally, except under a state statue like New York. But informally, under the First Amendment they had, that is, this protection of confidentiality of sources. The question interests me a great deal because it gets to the heart of journalism in general; whether it's the electronic journalism or the print journalism; that is, if a flow of information to the public is to be maintained, the confidentiality of the news sources must be protected. If people, individuals, with information on public matters, be they government officials or private citizens, do not feel they can speak to a journalist, again, whether he be an electronic journalist or a print journalist, in the knowledge that their personal identity will be kept confidential if they so wish it, then they will not speak to the journalist in question, and the public will be deprived of the information they might be able to present, and which could be printed or broadcast and used to inform the public. I don't know the specific details of the WBAI case, but you have raised this issue of confidentiality; you contend that your ability to operate freely *is* involved and that you must make a stand on it, so I clearly, as a journalist, take an interest in the case and if you feel that there is an issue of confidentiality then I have to defer to your judgment on it.

WBAI: In terms of your own experiences as a journalist, I take it you've been in similar situations where if you were forced to reveal your sources that would have spelled the end of that source. Perhaps you could give a few examples of that.

SHEEHAN: Well, I have never been in the kind of situation Mr. Goodman and WBAI are in, where someone has served a subpoena on me to disclose information which I felt might reveal the confidentiality of news sources. And I am now assuming here that you do not wish to turn those tapes over to Mr. Hogan's office because you feel, for your own reasons, that the turning over of these tapes might reveal confidential sources of information, or chill the flow of information to the public through WBAI. But as to the need to protect confidentiality, in my own experience, I can speak to that. I've worked as a correspondent both in Vietnam and in Washington for a number of years now. When you deal with government officials, be they civilian or military, these men and women must feel that they can speak to you on grounds of confidentiality if they are to speak to you at all on really important matters, because government has an ability to punish those who speak out of turn, that is, who reveal information which the heads of a particular administration do not want to see revealed. In those circumstances government has the power to *punish* the individual if he or she is identified, and to punish them administratively. We're not talking about someone being brought to trial for disclosing information, we're talking about someone's career being ruined in a quiet, non-public, administrative way. He or she is simply not promoted; they're assigned to an undesirable job, an undesirable post, they're given bad grades in their efficiency reports, etc. Now, clearly, if you are going to get information into the public domain which dissents from an official's, that is, an official version of events that a particular administration wishes to put out, you are going to have to protect the confidentiality of those who speak to you. And in some cases, where an administration, a particular administration, is attempting to conceal information from the public on matmatters of foreign policy, or defense, and the individual involved takes, for what may be personal motives or what may be motives of patriotism, the risk of passing this information to a journalist, the journalist, the way I feel, has a duty to protect that individual, because the information will cease if the journalist does not protect the informant. The public will, in the end, be deprived of information which would contradict what might be a falsehood being perpetrated upon them by the senior authorities at the time.

WBAI: I guess the next logical question after that is, what do you see as the role of the press in the United States?

SHEEHAN: Well, I see the primary role of the press as that of publishing, or in the case of electronic journalism, as broadcasting information which is of use to the citizen in making up his mind about how well his government is performing on a particular question, or how well policy is working, or whether a particular policy ought to be conducted for either reasons of practicality, or morality, for that matter. I see our role as an informative one. I see our power, whatever that may be, as the power to publish. I think that this places the press, quite often, in an adversary role to the government and the established institutions of our society, or the unestablished groups within our society which are themselves competing on any particular issue. But I don't see that as a bad thing. I see the adversary role the press often plays not just vis-a-vis government, but also vis-a-vis private institutions, as a good thing, as a duty of the press. I think we are often called the Fourth Estate. I think we ought to try to behave like the Fourth Estate. Our value is when we maintain our independence from any particular party, group, or administration, and seek to inform, to the best of our ability, to find out what is happening, and to publish the information.

WBAI: If I remember correctly, I think that at one point there was a possibility of your being called before the Pentagon Papers Grand Jury in Boston?

SHEEHAN: I've never been subpoenaed by any Grand Jury.

WBAI: You talked a lot about this so-called "chilling effect." Obviously you must have heard that there was a possibility that they were going to call you.

SHEEHAN: I've never heard of any subpoena. I knew that the Justice Department was investigating me, using the power of a Grand Jury in Boston, and I expected something of the kind after the *New York Times* was taken into court last summer, and the government obtained a restraining order. I thought there might be some consequences at that point.

WBAI: Has it had any chilling effect of any sort, or are things done differently at the *Times*? Do you operate differently now?

SHEEHAN: The investigation of me by the Justice Department has had *no* chilling effect upon my work in the sense of persuading me not to publish something that I would have otherwise published. The question of publication is the responsibility of my editors and it's they who decide what is to be published in the end and what is not. But in terms of what I report, *no*, that investigation has had no chilling effect on me. It certainly, when it was going on quite actively last fall and winter, effectively stopped me from working as a journalist, in the sense that about 2/3 to 4/5 of my time was taken up in discussions with my attorneys. When the government starts to interview your neighbors, and subpoena your bank records, this begins to consume your time. It detracts from your work. And so I would say that last fall and winter I was publicly operating at about 1/5 speed as a journalist, so it had *that* kind of effect. It certainly crippled my work during a period of time. However, I was quite willing to pay that price; I was quite willing to pay whatever price is necessary in this matter, and I certainly expected some consequences. I don't think that really bears that directly upon your problem, in the sense that you have had a subpoena served upon you to produce information.

WBAI: Well, it certainly has taken up quite a lot of our time.

SHEEHAN: Well, that's right, and I can understand that this kind of thing does certainly take up one's time, and I presume it's cost you a considerable amount of money as well. There's no doubt that it has, that it could have, on anyone who wished to be intimidated by it, a deterrent effect. That is, the threat of having a subpoena served upon one for certain kinds of information might lead certain newspapers, or radio stations, or television stations, not to publish or broadcast that information. There is simply no doubt about that, because of the embarrassment of having to surrender the material under the subpoena, or the cost in terms of time and money of fighting off a subpoena. There certainly is that effect. It is a price. It is one of the reasons why I deplore the serving of such subpoenas on newspapers and television and radio stations for material like this.

WBAI: Do you think that it's now falling into a pattern of harassment against the press in any way?

SHEEHAN: I don't know whether you can call it harassment. I would not want to accuse Mr. Hogan's office of harassment, I don't know what his motives are. I certainly think that there has been a pattern of serving subpoenaes on newspapers and radio stations and television stations, to produce material in court cases, over the past few years. I now have a colleague on the *New York Times*, Earl Caldwell, who has been fighting for at least two years now, a subpoena to produce notes and to testify within a grand jury. I think that what happens is that when the Federal Government begins to do it, as first occurred, why then you have state and local attorneys following suit. One always gets repetition, one always gets imitation, if you will. When one plane is hijacked, why someone else gets the idea and we have another hijacking. That's probably a bad comparison. I'm sure those in the various prosecutors' offices around the country would resent it, and I don't mean to draw that sharp a comparison, but it clearly is a question of imitation. There's been a flurry of these things in the last few years.

WBAI: Well, there are those who say that good journalists also have to be good citizens and like all good citizens you also have to cooperate with the authorities.

SHEEHAN: I don't personally believe that. I think the authorities also have a requirement to behave as good citizens, and I personally believe that the serving of subpoenas on newspapers and radio stations has an effect on freedom of the press, and of broadcasting. And, when I speak of freedom of the press, I'm using it in terms of print journalism and electronic journalism. Certainly, if the prosecuting authorities in the country—federal, state, and local, were able to break the confidentiality of news sources, break the ability of a journalist to protect his sources of information (and there have been cases where journalists have gone to jail because they have refused to disclose sources of information), I think that in that instance the authorities would be behaving like bad citizens, in an uncivic-like fashion, if you will. The point of government in this country as I understand it is to uphold the liberties of the citizenry. Government exists to preserve the rights and liberties of the citizenry, and what furthers that end is good, and what mitigates against it is bad. And actions which inhibit freedom of the press, which is a basic right in our constitution, are to me bad. I, obviously, have a journalist's point of view on this, but I don't think that duty starts with those out of government. That is, duty *stops*, if you will, once one steps into government. I think that government ought to be restrained as well as the citizenry.

Of Tapes and Subpoenas:

by Jeremiah S. Gutman, Rhonda Copelon Schoenbrod and Peter Weiss

Jeremiah S. Gutman is a lawyer for the New York Civil Liberties Union; Rhonda Copelon Schoenbrod is a staff lawyer for the Center for Constitutional Rights; and Peter Weiss is a lawyer and advisor to the Center for Constitutional Rights. Mr. Weiss is also a member of the WBAI local Advisory Board.

This is a midway report on The Great WBAI Tape Controversy, a case which raises fundamental questions of the media's right to report and the people's right to speak and the people's right to hear and know.

In the front-page excitement over whether newscasters should be required to act as deputy sheriffs and whether persons seeking an interpretation of their constitutional rights must do so from a jail cell, the origins of the controversy have been all but forgotten. To see the matter in context, then, it is necessary to go back to October, 1970, when one of the time-bombs strewn about the contemporary landscape exploded. The Tombs Insurrection was seen, even by the Law-and-Order contingent, as the inevitable consequences of the increasingly brutal conditions prevailing in the overcrowded, understaffed Men's House of Detention on White Street. One of the principal objectives of the defiant inmates was to arouse an uninformed and lethargic public to their condition, by, among other things, forcing the media off their collective uncommunicative ass.

WBAI had, for some time, given major attention in its programming to the shame of our prisons; not unexpectedly, it was sought out and right in there with live, on-the-scene coverage, including open-mike interviews with several of the inmates participating in the insurrection. Eventually, it will be recalled, the "Tombs Riot" came to an end with a mayoral promise of amnesty for the participants, as well as a promise of redress of their major grievances.

Unlike the violence-obsessed "straight" media, which rarely bother to report on prisons unless there is a riot or an escape attempt, WBAI continued to deal in depth, on many occasions, with the underlying causes of prison eruptions, including the Tombs Insurrection long after the incident itself had run its brief, dramatic course.

It was against this background that Detective McCarthy, of District Attorney Hogan's office, rang the bell at WBAI's offices on January 28, 1971, and served upon Ed Goodman, in his capacity as the station's general manager, a subpoena duces tecum, which is an order, drafted by a lawyer—often a prosecutor—requiring a person to appear at a certain time and place, under penalty (sub poena) of law, and to bring with him or her (duces tecum) certain documents or other materials. Here Ed Goodman was to appear in the criminal court a full two days later, supposedly at a trial which, in fact, was far from even the picking of a jury, and bring with him:

> "all tapes, recordings, program logs, and material broadcast with relation to the riot at the Manhattan House of Detention for Men (Tombs) during the period between October 2, 1970 and October 5, 1970."

According to any reasonable application of the rules of grammar, the subpoena called for all tapes and recordings bearing some relation to the events of October 2-5, 1970, whether such tapes and recordings were broadcast or not and whether they were made before, during or after the period in question. When WBAI requested an extension of time to determine whether to comply, the D.A. refused and insisted on a meeting in his office on the 31st hoping to strike a bargain whereby WBAI would simply deposit the relevant tapes in the lap of his office, a result which transcends the limited authority of a trial subpoena which normally means the production or refusal to comply occurs at an actual trial.

So, on the 31st, WBAI and lawyers from the Center for Constitutional Rights met with John Fine, the Assistant D.A. responsible for this subpoena, at which time he graciously took the position that all he wanted was material, arguably relevant to the events in question, which was actually broadcast from the time of these events through the Spring of 1971.

At this meeting, Mr. Fine informed Ed Goodman and his lawyers that he required the material in question in connection with the forthcoming trials of seven participants in the Tombs events on charges of kidnapping.

At this meeting, it was decided to turn over to the D.A. all program logs (brief written descriptions of aired programs) relating to programs dealing with prison conditions over a period covering six months, on the theory that such logs, being required by law to be kept and made available to one government agency, the FCC, could not reasonably be withheld from another.

After the meeting and after combing its archives for several weeks WBAI decided that the time had come to determine once and for all where the First Amendment began and where the duty to cooperate with law enforcement agencies ended. Though many in the legal community said it couldn't be done, the Center could not disabuse itself of the notion that, however clear it was that much of the material sought had been momentarily published, a serious threat to the airwaves as an environment for free expression was posed by this subpoena.

After being informed that WBAI would supply no material beyond the program logs, the D.A., on February 24, obtained an order to show cause why Ed Goodman and WBAI should not be held in contempt. The order was returnable on the next day, before N.Y. Supreme Court Justice Gerald Culkin, at which time the judge sustained WBAI's objection that the original subpoena had expired, but in the same breath reissued the same subpoena for the following Monday, February 28.

On Monday, a motion was made on WBAI's behalf to quash the subpoena on several grounds, including violation of the First (Freedom of Speech) and Fourth (Search

A Guide for the Layman

and Seizure) and Fourteenth (Due Process) Amendments and Article 79-h of the Civil Rights Law of New York which, on its face, exempts all newspeople, including broadcasters, from subpoenas. At the conclusion of the argument, the judge announced that he had no problem whatsoever with this subpoena and that if people don't want their statements used against them, they shouldn't make them, saying: "If anybody wants to keep news to himself, he should keep his mouth shut, or his typewriter don't work (sic)."

In the related *Village Voice* litigation involving a subpoena for the original manuscript of a letter published under the name of one of the "Tombs" defendants, a lengthy period for preparation of the case and argument was accorded the *Voice* attorneys by the judge who, being the actual trial judge, was in the best position to determine the urgency of the D.A.'s need to enforce the subpoena. WBAI, on the other hand, was given less than one day to submit proof and full argument in support of their case. So on March 2, Justice Culkin denied the motion to quash and, at the same time, rejected a proposed order modeled after the order signed by the court in the *Village Voice* case, staying contempt proceedings to enforce the subpoena pending appeal in the Appellate Division, the court of second instance in New York.

WBAI was ordered to return to court the next day to comply with the subpoena or to be held in contempt. Prior to that appearance, an application for an emergency stay of any contempt proceedings was made to and denied by a single Justice of the Appellate Division, but set down for consideration by a panel of five judges of that court for the following week.

At the Friday hearing in the Supreme Court, Justice Culkin invoked a power, reserved by law for those rare occasions of imminent and actual disruption of judicial proceedings, to hold WBAI and Ed Goodman summarily in contempt. No hearing was had, no witnesses were permitted to testify, not even the minimal showing of need for the materials subpoenaed was required from the D.A. and Ed Goodman was denied the most fundamental right to address the court. Rather, the station was held in contempt and fined $250 and Ed Goodman sentenced to 30 days in the civil jail. Motions to stay execution of the sentence or release him on bail pending appeal were rejected. This last refusal appears to be unprecedented: reporters and other newspeople have gone to jail in the past, but not until their legal claims were finally determined and rejected on appeal.

And so, on Friday, March 3, at about 4 P.M. off went Ed Goodman to the Civil Jail on West 37th Street.

A second application, this time for a stay of the sentence, was made to the same Appellate Division Justice at an extraordinary Saturday morning session and was similarly denied, but set to be heard the following Tuesday.

With no relief in sight in the interim, Center lawyers joined and bolstered by the New York Civil Liberties Union determined to take the matter to the federal court which has the authority to issue the "Freedom Writ" (writ of habeas corpus) to correct flagrant injustice. So, on the morning of Sunday, March 5, United States District Court Judge Marvin Frankel, having determined that substantial rights and issues were at stake, did, in an unusual session convened near his residence in the Larchmont Village Hall, sign a writ of habeas corpus, which ordered that Goodman be liberated forthwith. In so doing, Judge Frankel noted:

> "If I were to be too unguarded on this Sunday morning, I might take judicial notice that he (Goodman) is manager of a radio station which is not committed always to orthodoxy, and that may have a bearing in this case, too, but I think at most a peripheral one."

The tide had turned.

Illustration by Marty Norman. Reprinted from *MORE: A Journalism Review*.

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On the following day, Mr. Hogan—now represented by another District Attorney, filed an appeal from Judge Frankel's order to the Federal Court of Appeals for the Second Circuit, seeking to have it determined that the federal courts had no business redressing such injustice, no matter how grave, done by the state courts, even though a footnote in his appeal brief indicated that he was no longer interested in Goodman remaining incarcerated while his case proceeded through the state courts.

On Thursday, March 9, in one of the more bizarre incidents in recent judicial history, three judges of the Federal Court of Appeals were hearing arguments on the D.A.'s appeal from Judge Frankel's order at the same time that five judges of the New York Appellate Division were debating Goodman's applications for a stay or bail. By late afternoon, three of the latter had declared the issue academic, in view of Judge Frankel's intervening order, while a minority of two held that, since substantial questions had been raised by the motion to quash the subpoena, the stay should be granted.

The Court of Appeals subsequently reversed Judge Frankel and ordered the writ of habeas corpus vacated, not on the broad jurisdictional ground urged by the D.A., but on the narrowest ground, that Judge Frankel acted too precipitously, saying in effect that for Ed Goodman to be incarcerated from Sunday to Tuesday, the time scheduled for the hearing before the Appellate Division, would not have been such a big deal as to require federal intervention. But, the Second Circuit stayed their order to permit a new application to the Appellate Division, which immediately granted the stay, pending Goodman's and WBAI's appeal on the merits, which are to be argued in May.

The "merits", i.e., what this law suit should have been exclusively about, fall essentially into categories: Procedural (due process) and substantive (freedom of the press).

Under the first heading, WBAI contends that:

1. The subpoena was invalid because, although issued in connection with the Tombs trials, it required the production of the requested materials *ex parte* (one-sided) before a judge, other than the actual trial judge, who is the only one able to assess the relevancy, materiality and admissibility of the evidence sought as minimally required by New York law.
2. The subpoena was invalid as being over-broad, i.e., it is a typical example of an illegal "fishing expedition" for evidence of conjectural as opposed to reasonably established relevance and usefulness, which in effect deputizes WBAI staff as the prosecutor's file clerks.
3. Even if the subpoena were valid, the summary contempt conviction was unjustified, depriving WBAI of an opportunity to prove or develop their case, a pre-requisite of fundamental fairness dispensed with only where compelling necessity in the form of actual disruption in the courtroom mandates.

The preceding points illustrate what many defendants less equipped to defend themselves than Goodman and WBAI experience every day: that the wheels of justice, when operated by an irate or vindicative prosecutor, can grind exceedingly fast and exceedingly cruel. They are points which must be made because the job of the lawyer and the citizen is not to permit prosecutors to abuse the powers he may legitimately possess by either oppressive exercise or expansion by circumvention of the adversary process.

But they are not basically novel points. The novel points —which the courts may not reach, depending on how they deal with the procedural points—go to the very heart of the relations between the press (particularly in depth radio reportage) and law enforcement agencies in a society which prides itself on the high value it places on freedom of the press.

They can be stated as follows:

1. The power to enforce subpoenas against professional journalists, reporters or broadcasters, is to have a seriously detrimental effect on their capacity and indeed willingness to inform and instruct the public, and should be justified, *if at all*, only in situations in which an overwhelming need in the category of an imminent threat to national security for the subpoenaed material can be demonstrated.
2. The mere fact that a program has been broadcast does not mean that it must necessarily be made available at a later date, to law enforcement agencies. If all radio programs were fair game for prosecutors, radio stations—particularly stations like WBAI, which specialize in in-depth programming on controversial subjects—would be duty-bound to warn participants in their programs that anything they said might be used against them in a court of law. Such a practice, obviously, would go a long way toward hampering the very spontaneity of live radio programs dealing with "hot" subjects which makes programs of this type such valuable tools in uncovering the time bombs around us before they blow up in our faces.
3. Whether or not all radio programs should be immune from the reach of the law, certainly immunity should attach to programs which permit direct and spontaneous interchange among anonymous participants, whose identities can only be determined if a prosecutor, having obtained a tape of the program, uses it for purposes of voice-print identification. In this respect, an anonymous tape, even though aired, should be entitled to the same protection afforded to reporters' notebooks or "the unidentified informant" under *Caldwell* and similar decisions.
4. Beyond the relevance of the First Amendment to the problem at hand, there is the question of the interpretation of Article 79-h of the Civil Rights Law of New York. This section, which is only two years old, and has not yet been interpreted by any appellate court, seems to grant immunity from subpoenas to all newspeople, whether such respect to published or unpublished material. In the *Village Voice* case, it was interpreted as protecting only confidential material, but neither the language nor the history of the statute support that view.

These and other questions of far-reaching importance will face the judges of the Appellate Division when we appear before them on behalf of Ed Goodman and WBAI some time in early May. They are questions which should also be of great concern to other broadcasters and newspeople, who would do well not to ask on whom the subpoena was served: it was served on them, as much as on WBAI. Finally, they are questions of great importance for the listening audience, for the First Amendment rights which this litigation seeks to assert are primarily theirs and only secondarily those of the station or of persons participating in the station's programs.

MARATHON'72

WBAI

Volume 13
Number 5

Pacifica 99.5 fm

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The WBAI Folio is not sold, it is sent free to each subscriber to the station. The program listings are published every month as a service to subscribers who support our non-profit, noncommercial station at the annual rate of $24.00 (student and retired persons subscription rate: $15.00 a year). All donations are tax deductible and checks should be made payable to "Pacifica—WBAI."

WBAI is on the air from 7:00 a.m. to c. 4:00 a.m., Monday to Friday, and 8:00 a.m. to c. 4:00 a.m., Saturday and Sunday. Our transmitter is located in the Empire State Building and we broadcast with an Effective Radiated Power of 5.4 KW (horizontal) and 3.85 KW (vertical). Power equivalent to 50,000 watts at 500 feet. Antenna: 1223 feet above average terrain. Height above sea level: 1515 feet. Frequency: 99.5 fm. The studios and offices are located at 359 East 62nd Street, New York, N.Y. 10021. Phone: (212) 826-0880.

WBAI is owned and operated by the Pacifica Foundation, a non-profit corporation. The other Pacifica stations are KPFA, 2207 Shattuck Ave., Berkeley, California 94704; KPFK, 3729 Cahuenga Blvd., Los Angeles, California 91604; and KPFT, 618 Prairie St., Houston, Texas 77002. Subscriptions are transferable.

The duration of programs scheduled is approximate. The dates after listings indicate past or future broadcast. The program listings are copyrighted (Copyright 1972, WBAI) and are not to be reprinted without written permission. Extracts may be reprinted for highlight listings. "Pacifica" and the dove are trademark, 1972.

WBAI is not responsible for the return or safety of unsolicited tapes or manuscripts.

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	MARC SPECTOR
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	BOB FASS
	PAUL GORMAN
	LARRY JOSEPHSON
	STEVE POST
Some of the Above	KATHY DOBKIN
	LOUISA SELLARS

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CHARLOTTE BROWN
LIZ CARVER
DANNY CORNYETZ
FRANK DILANDRO
ED FREEMAN
JIM FREUND
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	PETER WEISS
	DAVID WHITE

*Also National

THE 1972 MARATHON

The Marathon is WBAI's biggest bill-paying effort of the year. It's also our longest continuous live program-event. It's a time when the BAI staff asks you to take care of our business, while using every conceivable technique of reminding you why it is you're tuning-in in the first place. You can expect to hear our deepest emotions and ambitions hanging out, and the thrill we get from your applause for WBAI (in the form of pledges, of course). To add to the entertainment this year, we'll be live-broadcasting from the Free Music Store's final gala week of events (see the schedule on page 14). The Wednesday, Friday, Saturday and Sunday concerts will be on the air in their entirety. On the evening of May 13, you'll hear our Benefit Concert (see page 15), in a live broadcast from Hunter College Assembly Hall. And throughout the Marathon, we'll be bringing you some of the programs that have been produced in recent months at WBAI, and never would have been possible without listener-sponsorship.

The 1972 Marathon goal is $215,000.-

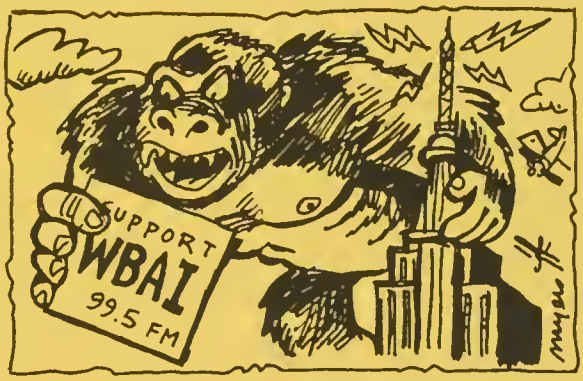
We're bigger than ever and accordingly the Marathon too grows. But take solace in the fact that we've reduced the amount of money required to meet capital costs. You'll notice that most of the money is going to meet operating expenses which translates very quickly and directly into programming which is what we're all about.

Another encouraging factor is that the Marathon total as a percentage of our current fiscal budget, $634,150.- is less than last year, just over 33% of the funds we will need to operate for the entire year. Ideally, some day more listeners will become subscribers without the special intensive appeal which is the Marathon. People will send in the money we need on a daily, weekly and monthly basis as Lewis Hill, the founder of listener sponsored radio envisioned. But until that millennium arrives, the Marathon will return predictably every May 1st.

How will the funds be used?

Operating Costs:

Back salaries	$ 30,000
Trade Bills	40,000
May operating costs	25,000
Special Marathon operating costs	5,000
Summer Doldrum Fund	25,000
National Political Convention Coverage	15,000
Pacifica Foundation Levy (1/2 the annual payment)	9,000
79-h Fund Legal costs (not fees)	4,000
Sub Total	$153,000



Capital costs:

Building Mortgage Annual Principal Payment	$ 25,000
Building Mortgage Annual Interest Payment	22,000
Basement Ventilation and Air Cooling system	15,000
Sub Total	62,000
Grand Total	$215,000

We hope you'll be a part of this Marathon by sending in whatever you can afford and encouraging fellow listeners to do likewise. Marathons can be (and have been) a drag. However, from time to time, like the last two years, they can prove to be a magical event when all the energy of staff, board, listeners and other friends comes together at one time for one purpose leaving other concerns behind. First Amendment Radio is an ongoing exciting growing experiment in how the medium can be utilized to realize its full potential. Every May at Marathon time the experiment is put to a severe test. We have never failed over the past nine years and we're confident we can do it again with your help.

Please call up and pledge your support and then SEND IN YOUR CHECK PAYABLE TO PACIFICA-WBAI. The address is WBAI, 359 East 62nd St., New York, N.Y. 10021.

MARATHON MECHANICS
How It All Works

THE GOAL: We need $215,000. and will use every relatively honorable device available to convince you to pledge your support and then send in the money. We'll begin this curious process on the morning of May 1st and continue till we have the $215,000.- *in pledged money*. Then we'll remind you as often as necessary to honor those pledges so that we can pay our various creditors.

PLEDGES: are very real to us. The sum total of pledges makes up the goal that we count on receiving. So please pledge, but only pledge what you can afford. When you call in 826-0880 to make your commitment, please give the information clearly so that we know for certain if you wish to receive a subscription or whether you're simply making a donation. We also need to have your name and address, so that if we don't hear from you in the form of cash, we can gently remind you.

When you do, at that fateful moment, lift your pen and write out your check or money order – make your gift payable to PACIFICA-WBAI and remember that its tax deductible. Please use the coupon on the next page. Send the money to WBAI at 359 East 62nd St., New York, N.Y., 10021.

Please don't send cash. With alarming frequency, cash is stolen in the mail. We won't get it. You won't get the *Folio* and feelings will be hurt all around, except for the thief, who him/herself is the victim of an oppressive system.

VOLUNTEERS: are indispensable to a successful Marathon to answer telephone calls from pledging listeners and to do necessary clerical work. If you can't give us your money, give us your time or a bit of both. We will be calling for volunteers over the air. Remember that you must always call us first before coming down to help. We want to make certain that you have something to do when you arrive.

THE BARTER DEPARTMENT: Four lonely, dejected looking, bleary-eyed young people sit in the church balcony, chins on hands, staring longingly at their black telephones. A long time passes. Occassionally one casts a pleading glance towards a large glass window beneath the balcony and across the church. A crudely hand painted sign dangles from the balcony railing, directed at the same window, saying, "We are the forgotten of the earth, please speak our name and number." Suddenly a phone rings. Each of the hands grabs for his or her phone. The fastest prevails, and picks up the receiver. "I'd like to offer my pet avocado Fred," the voice on the other end says.
Pick One:
a) Crazed Jesus Freaks b) A cult of Devil worshippers, c) A secret underground movement transmitting messages in code, d) The WBAI Barter Dept., e) A bad dream, f) None of the above, g) All of the above, h) None of the below.

Answer:
d) The WBAI Barter Dept.

What, How and Why

What – One of the unique features of a WBAI Marathon. People call and give us things, hopefully of some value, either financially or spiritually, that someone else in the same or a similar state of consciousness might have use for. Such a person calls and "buys" the item, with proceeds going to WBAI.

How – No item actually passes through the lustful hands of the WBAI staff. We put "giver" and "taker" in touch with each other through a complex series of color coded postcards. No money changes hands until the item is received by "taker". Then a check for the appropriate amount is made payable by the "taker" to Pacifica-WBAI, and mailed to WBAI, 359 East 62nd Street, New York, N.Y. 10021. BUT ONLY AFTER THE ITEM HAS PASSED FROM THE "GIVER" TO "TAKER". It's the honor system, gang. You'll hear the list of attractive and available barter items being read over the air from time to time, along with the Barter Dept. phone number. 371-5200. (It's different from the regular pledge number!)

Why – For the hell of it. We don't make much money from barter items. A lot of barter items don't materialize. It's far more trouble than it's worth. Why do we do it then? Because we're weird.

Any questions?

Abundance

Donations

If you are already a subscriber, give **MORE!**

Give any amount $_____

Start right now giving $____ per month

Be a Sustaining Member $60
Bill once ___ quarterly ___ monthly ___

Be a Friend of Free Radio $120
Bill once ___ quarterly ___ monthly ___

Name _____

Address _____ Zip _____

Gifts

Do a favor for your friends. Give them gift subscriptions or convince them to subscribe.

___ Regular sub $24
___ ½ year Regular $12

___ Student sub $15
___ ½ year Student $7.50

A gift for _____

Address _____ Zip _____

A gift from _____

Address _____ Zip _____

Regulars, Students & Renewals

If you've never subscribed before or you'd like to renew:

___ Regular sub $24
___ ½ year Regular $12
___ Student sub $15
___ ½ year Student $7.50

___ Sustaining Member $60
Bill once ___ quarterly ___ monthly ___

___ Friend of Free Radio $120
Bill once ___ quarterly ___ monthly ___

Name _____

Address _____ Zip _____

May Schedule

Free Music Store

Dear FREE MUSIC STORE Fans:

We were going to say goodbye to you in April but have extended the FREE MUSIC STORE season to the first week in May. We'll be running every night, May 1-6, in an attempt to reach the finish line with a climactic last gasp.

No sooner did we decide that than our Music Director, Dan Kavanaugh, hit on the wonderful idea of a summer season. In order to contemplate such a delight at this time, I have to whip myself up into a considerable state of fantasy, seeing as how the desk is cluttered with papers and scrawls representing tons of unfinished business, and the last Sat. in April isn't even scheduled with yawning gaps in that first week in May (and I do mean yawning at this point.)

However, I have managed to get some fantasy going, and here's what the summer boils down to: you and me under some leafy trees (Prospect Park? Carl Schurz Park?), about 4 o'clock every Sunday afternoon, with a few lucky cool breezes weaving in and out of the heat and a woodwind quintet, perhaps a brass ensemble, if I was feeling really up, a program of poetry and music (now *that* would be nice) —that's the idea. And for those of you, recluses, homebodies, whatever, who dig listening to the FREE MUSIC STORE broadcasts, the summer concerts will be broadcast live.

Now about this final week of our *official* season, May 1-6, see schedule below. For info on yawning gaps, stay tuned.

Yours,
Barbara Oka

WBAI's FREE MUSIC STORE takes place at 9 P.M. here at the station. Our address is 359 East 62nd Street between 1st and 2nd Avenues. Admission to the FMS is free, but would we turn away contributions?

Mon. May 1	Jazz with the OPEN SKY TRIO: Dave Liebman on saxophone; Bob Moses on drums; Frank Tusa, bass.
Tues. May 2	CHAMBER MUSIC: Irene Gubrud, soprano; Constance Boykan, flute; David Abramovitz, piano and harpsichord; Helen Harbison, cello; Marcia Heller, flute. The program: Songs by WOLPE; RAVEL'S *Chansons Madegascar*; WEBERN *Cello and piano pieces, Op. 11.*; BOULEZ *Sonatine for flute and piano*; CARTER *Sonata for flute, oboe, cello and harpsichord*; possibly works by MOZART and BACH.
Wed. May 3	HADYN SONGS and SALZMAN's CUMMINGS SONGS sung by baritone Alan Titus and soprano Giuseppina Dudek, accompanied on the piano by James Irsay.
Thurs. May 4	TO BE ANNOUNCED.
Fri. May 5	TO BE ANNOUNCED.
Sat. May 6 LIVE BROADCAST	THE 3RD ANNUAL RAG-REVIVAL REUNION featuring the whole gang—Bill Bolcom, Mike Sahl, Josh Rifkin; and Willa Rowder, other new faces. Better come early!

Barbara Oka introducing The Cleveland String Quartet at the Free Music Store. FREE MUSIC STORE: The Cleveland String Quartet. Mon., 5/29, 2:15 P.M.

WBAI BENEFIT

A PORTION OF THE PROCEEDS WILL GO TO THE **CENTER FOR CONSTITUTIONAL RIGHTS**

Saturday May 13
8:00 p.m.

Hunter College Auditorium
69 th St between Park & Lex

tickets $3 and $5

2 free tickets with a new subscription
send to WBAI
359 E. 62nd St. New York, NY 10021

LOWELL BODGER

REGULAR PROGRAMMING

Reportage

NEWS. Daily and Weekends, 6:30 P.M., Mon. to Fri., 9:00 A.M., Sat., Sun., 7:30 A.M.
WAR SUMMARY. Mon. to Fri., 10:45 P.M.
EXTRA. A slot for news specials. Tues., Thurs., 7:15 P.M., Wed., 11:30 A.M., Fri., 1:30 P.M.
FROM THE WASHINGTON BUREAU:
- CAPITOL NEWS SUMMARY. Fri., 7:15 P.M., Sat., 11:30 A.M.
- WASHINGTON REPORT. Mon., 7:15 P.M., Tues., 11:30 A.M.
- JUDICIAL REVIEW. Wed., 5/24, 7:15 P.M., Mon., 5/29, 11:30 A.M.
- WHAT'S A NICE GUY LIKE YOU DOING IN A PLACE LIKE THIS? Wed., 5/31, 7:15 P.M.

PUBLIC AFFAIRS MAGAZINE. Mon., 8:00 P.M., Tues., 2:30 P.M.; Wed., 5/24, 8:15 P.M., Thurs., 5/25, 2:30 P.M.
WEDNESDAY. The Wednesday evening magazine. Wed., 5/31, 8:15 P.M.

Live Radio

IN THE BEGINNING. With Larry Josephson. Mon. to Fri., 7:00 A.M.
LUNCHPAIL. With Paul Gorman. Tues., Thurs., Sat., Noon.
THE OUTSIDE. With Steve Post. Sat., Sun., Midnight.
RADIO UNNAMEABLE. With Bob Fass. Tues., to Fri., Midnight.
ELECTRA REWIRED. With Liza Cowan. Mon., Midnight.
OUT OF THE SLOUGH. With Charles Pitts. Sat., 4:30 P.M.
T.C.B. (Taking Care of Business) With Deloris Costello. Wed., Noon.

Drama, Literature and Criticism

FOR THE ARTS. Two hours of arts coverage with Milton Hoffman. Sun., 8:00 P.M.
CONTINUED TOMORROW. Serialized readings. Mon. to Fri., 5:15 P.M.
RADIO THEATRE:
- UNDER THE GUN. Spoken improvisational madness. Tues., 5/23, 11:00 P.M., Mon. 5/29, 4:45 P.M.
- A SATIRICAL VIEW. With Marshall Efron and Barton Heyman. Fri., 5/26, 7:45 P.M.
- THE RADIO. Produced by Patrick Shea and Charles Potter. Tues., 5/30, 11:00 P.M.,

POISONED ARTS. Wed. 5/24, 10:15 P.M., Fri., 5/26, 2:00 P.M.
GURU LEW FONGHOO. With Lou Gallo. Fri. 5/26, 11:00 P.M.
NEW FORMS. A new series on the visual arts produced by Ruth Rotko and Terry Shtob. Mon., 5/22, 5/29, 11:00 P.M.

Programs for Young People

AND NOW A DIFFERENT INTERPRETATION . . . Sat., 8:00 A.M.
THE DAYDREAMER. Sat., 8:15 A.M.
THE RONNY WATKINS SHOW. Sat., 9:00 A.M.
THERE'S NEVER ANYTHING TO DO. Sun., following the rebroadcast of the NEWS.
THE BOB COHEN SHOW. Sun., 8:30 A.M.
CANDY FROM STRANGERS. With Jan Albert. Sun., 10:00 A.M.

General

WHATEVER BECAME OF . . . With Richard Lamparski. Tues., 8:00 P.M.
REPORT TO THE LISTENER. With Station Manager Ed Goodman. Wed., 7:45 P.M., Thurs., 11:30 A.M.
NIGHT INTO DAY. Portions of Bob Fass' RADIO UNNAMEABLE. Sun., 5:00 P.M.
COMMUNITY BULLETIN BOARD. Announcements of social and civic events with Frank Di Landro. Mon., Wed., Fri., 5:45 P.M.
ELECTRA REBROADCAST. Portions of ELECTRA REWIRED. Thurs., 4:00 P.M.
IN THE SPIRIT. With Paul Gorman. Sun., 11:00 A.M.
FOR THE ARTS. Portions of the Sunday evening arts magazine rebroadcast. Wed., 3:00 P.M.

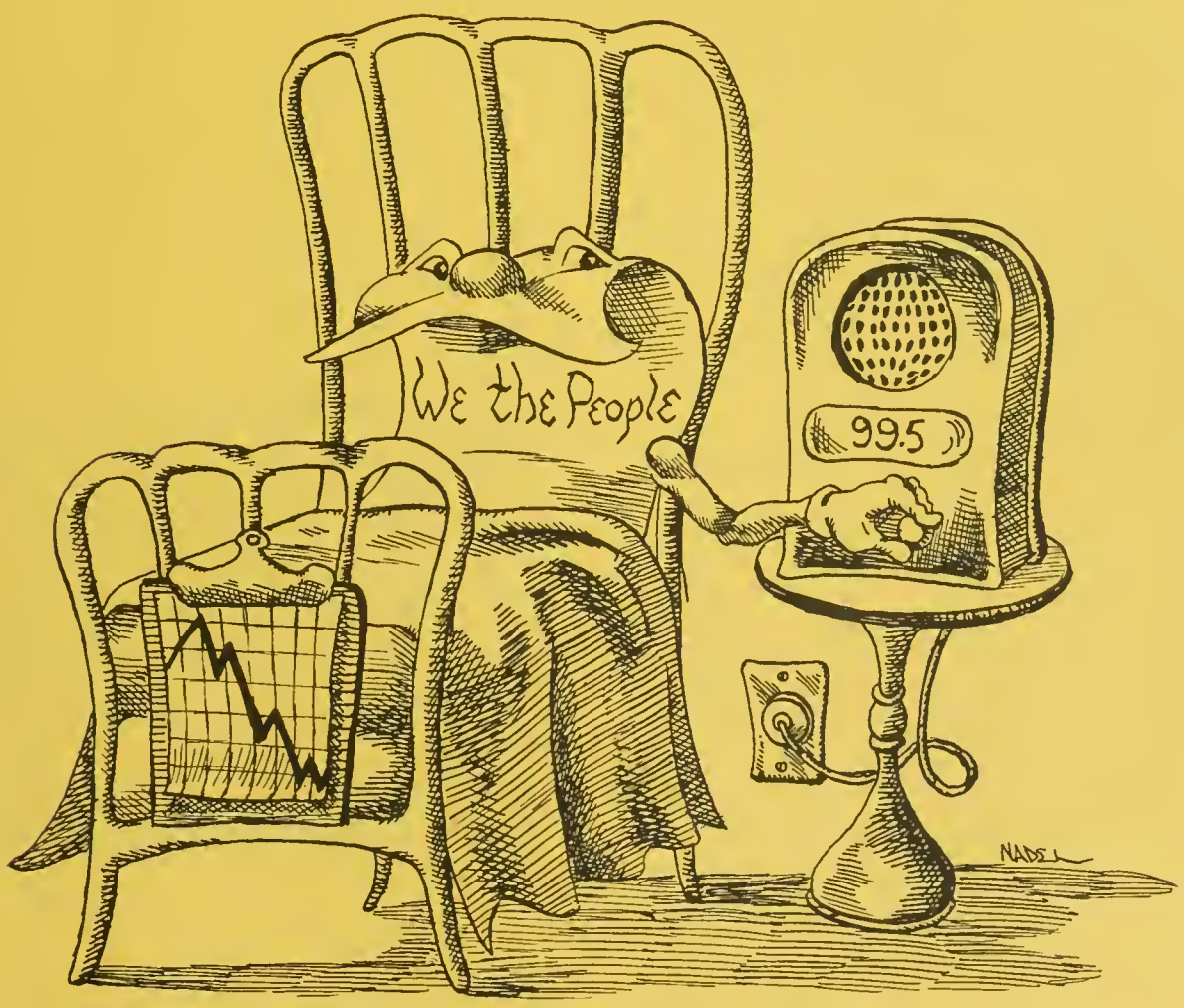
Music and Sound

AT THE RISK . . . Anything goes. Live from the Music Dept., sometimes with guest composers. Sun., 5/21, 5/28, 10:00 P.M.
MORNING MUSIC. Recorded music with a classical bias, presented live. Mon. through Fri., c.9:30 A.M.
CIVILIZATION AND ITS DISCONTENTS. Music, words, words about music. From the Musidept. Tues., 5/30, 8:30 P.M.
I.P.S. Inches Per Second: tape music. Mon., 5/29, 11:30 P.M.
FREE JAZZ. All kinds of jazz, often live. Sat., 5/27, 2:00 P.M.
TWO HOURS OF FOLK. With Izzy Young. Sat. 5/20, 2:00 P.M.
GRASS ROOTS OF MUSIC. Bluegrass and old time country music. Sat., 8:00 P.M., Mon., 12:20 P.M.
FISCHER-DIESKAU SINGS SCHUBERT LIEDER. Presented by Frank Coffee. Mon., 5/22, 9:00 P.M.
BALKAN FOLK MUSIC. Presented by Martin Koenig. Sun., 5/28, 7:30 P.M., Wed., 5/31, 2:30 P.M.
AN ORGAN RECITAL BY CALVIN HAMPTON. Live, Sun., 5/21, 4:00 P.M.
EARTH VILLAGE. "Ethnic" music. Sun. 5/21, 7:30 P.M., Wed. 5/24, 2:30 P.M.
MBARI MBAYO. Calypso and news from Africa. Presented by Godwin G. Oyewole. Wed., 4:15 P.M.
SCORPION SWIFT. With Rob Crocker. Wed. 5/31, 11:00 P.M.
UBINGWA WA AFRIKA. Pan-African music. Presented by Frank Owano. Wed., 5/24, 9:45 P.M.

Perspectives

BOTH SIDES OF THE BARS. With David Rothenberg. Tues., 5/23, 5/30, 5:45 P.M.
CHINESE PRESS REVIEW. Thurs., 5/25, 6:00 P.M.
COMMUNITY RADIO. With Sydney Johnson. Tues., 7:45 P.M.
DATE-LINE COMMON SENSE. Produced by Deloris Costello. Political Pyramid moderated by Agatha Graham. Fri., 5/26, 8:30 P.M.
ENVIRONMENT. With Glenn Paulson. Mon., 7:45 P.M., Thurs., 2:00 P.M.
ENVIRONMENTAL OUTRAGES. With Grace Jessen and Dick DeBartolo. Fri., 5:55 P.M.
FREE VOICE OF GREECE. With Adamantia Pollis. Wed., 5/24, 5/31, 5:55 P.M.
GAY PRIDE. With Pete Wilson and Gary Fried. Mon., 10:15 P.M., Tues., 2:00 P.M.
CONRAD LYNN. Mon. 5/29, 5:55 P.M.
NEWS AND VIEWS FOR CAR OWNERS. With Sam Julty. Sat., 7:00 P.M.
NORTH STAR. With New York University black students. Sun., 5/28, 7:00 P.M.
PALANTE. With the Young Lords. Sat., 7:30 P.M., Mon., 1:15 P.M.
VICTOR PERLO. Mon. 5/22, 5:55 P.M., Thurs. 5/25, 2:15 P.M.
UMOJA (UNITY). Circle of Health. With Saidi Hekimu, Sat., 11:00 P.M. Esther Rand Housing Notebook, Sat., 11:30 P.M.
UP AGAINST THE WAILING WALL. With Rabbi A. Bruce Goldman. Sun., 6:00 P.M., Mon., Noon.
WOMANKIND. With Nanette Rainone. Thurs., 7:45 P.M., Fri., 11:30 A.M.

Illustration by Marc Nadel.



Fight Constitutional Atrophy
Support the Marathon

HIGHLIGHTS

THE PLOUGH AND THE STARS. A rebroadcast of the March 19th live radio production of the Sean O'Casey play produced and directed by John Lithgow, with a cast including Dee Victor, John Newton, Kathryn Walker, Lenny Baker, and Hollin Hood. (5/20)

A GEOPOLITICAL ANALYSIS OF NIXON'S NEW CHINA POLICY. Mr. O. Edmund Clubb, who spent 20 years in Asia, 18 of them in China, and was the last American Consul General in Peking, talks with Larry Josephson about the geopolitical implications of Nixon's China trip. Produced by Larry Josephson (5/21)

FREE MUSIC STORE: Country Fiddlin'. The Free Music Store presents the Apple Country String Band, Kenny Kosek and friends, Alan Block and Bill Garbus, and the incredible Tex Logan. A rebroadcast of the live performance, March 11, 1972 by the Musidept., produced by Tom Whitmore and recorded in STEREO. (5/23)

STREET GANGS. David Selvin investigates the question: Do street gangs in New York have a new focus and direction? (5/23)

MOTHER'S DAY. A special program dedicated to mothers—which will include music and poems by Adrienne Rich, Sylvia Plath, Robin Morgan, Erica Jong, and many others. Produced by Brett Vuolo and Mimi Weisbord Anderson. (5/25)

FREE MUSIC STORE: Oregon. Here again is WBAI's favorite raga-jazz-et al group. Glenn Moore, bass, flute and piano; Collin Wallcott, sitar, tabla, clarinet, violin; Paul MacCandless, oboe, English horn and soprano sax; and Roger Towner, guitars and piano. Recorded in STEREO by David Rapkin and Tony Elitcher on February 9, 1972, and produced by the Music Dept. (5/27)

FREE MUSIC STORE: The Columbia University Collegium Musicum. A concert of medieval and renaissance music "In Praise of Women: Musical Tributes to Lovers, Virgins, and Martyrs." Produced and recorded by the Music Dept. in STEREO. (5/28)

ONDES MARTENOT. Part 1. Arlette Sibon-Simonovich is probably the world's leading performer on this electronic musical instrument—the grandaddy of the synthesizers and still very much in use by contemporary composers. In this, the first of two programs, she talks with Eric Salzman and we hear *Three Canons in Homage to Galileo* by the Catalan composer Jose-Maria Mestres-Quadrey and *Outremer* by Bernard Parmegiani. Recorded at WBAI in STEREO by David Rapkin. (5/29)

INSIDE ATTICA: An Interview with Donald Noble. One of a series of interviews with the alleged "leaders" of the Attica Prison rebellion, produced inside the prison last February by Bruce Soloway. (5/30)

WHAT'S A NICE GUY LIKE YOU DOING IN A PLACE LIKE THIS? Do members of the House of Representatives take themselves too seriously? Two of the four hundred and thirty five Congressmen speak to that issue. Sam Steiger (R-Ariz.) and Bob Eckhardt (D-Tex.) talk with Bob Kuttner and Danice Bordett. (5/31)

"GONE TO THE GRAVEYARDS EVERY ONE" Retreatism. Part 1. Universities. The first program in a new series looking into the question of the seeming retreat from the political into the personal. Produced by Margot Adler. (5/31)

WBAI's Day Care Center. Photo by Steve Post.

"Every time my mother sees me, she says 'Why don't you curl your hair?' To this day, she says she's going to curl my hair in the coffin."
"When you were curling I was straightening. One time all my hair fell out, and I had to wear this long Sophia Loren wig, and everyone told me how pretty my hair was!"
"My mother used to tell me, 'I was really pretty before I had you'"
"With me, it was my father. He wanted a boy, and he had four girls. I was the oldest."

On Sunday, May 7, at 1:00 P.M., we'll be having our second Mass Women's Consciousness Raising at WBAI. We'll be getting together and talking about how a CR group works and helping you to form groups in your own area. And, of course, we'll provide day care but you should bring food for yourself and your children. So, if you couldn't come last time, join us on Sunday, May 7 in WBAI's Studio C, 359 East 62nd Street. Please call 826-0880 and let us know you're coming.

Bruce Soloway and David Rapkin of WBAI, with Richard Wolf, Henry Smith and Greg Knox of the Network Project.

The Network Project with Bruce Soloway and David Rapkin has won First Place in the News category, non-commercial division, of the Eighth Annual Major Armstrong Awards for their program, FEEDBACK: The Image Empire. These awards are for excellence and originality in creating and presenting superior FM programs. FEEDBACK: The Image Empire was the second program in this series investigating the structure and function of network television.

MAY LISTINGS

Saturday 5/20

HIGHLIGHTS

10:00 A.M. **THE LIFE OF THE MIND: The Two Worlds of Dr. Spock.** Part 1. The first of three lectures integrating the two major concerns of life: children and the social order in which they live. Given by Dr. Benjamin Spock at The New School in February 1972. Recorded by John Crowther. Edited by Richard Fioravanti. The Life of the Mind series is produced by Larry Josephson.

9:00 P.M. **THE PLOUGH AND THE STARS.** A rebroadcast of the March 19 live radio production of the Sean O'Casey play produced and directed by John Lithgow, with a cast including Dee Victor, John Newton, Kathryn Walker, Lenny Baker, and Hollin Hood.

7:30 PROGRAMS BY AND FOR YOUNG PEOPLE.
- 7:30 NEWS. (5-19)
- 8:00 AND NOW A DIFFERENT INTERPRETATION . . . A program to follow the rebroadcast of the evening NEWS which will contain the news as viewed by young people of different backgrounds and ages.
- 8:15 THE DAYDREAMER. An adventure into the inner spaces, involving young people through meditation, humor, music, and drama. Hosted by Bob Cohen and Allan Corby.
- 9:00 THE RONNY WATKINS SHOW.

10:00 **THE LIFE OF THE MIND: The Two Worlds of Dr. Spock.** Part 1. See Highlights above.

12:00 LUNCHPAIL. With Paul Gorman.

2:00 TWO HOURS OF FOLK WITH IZZY YOUNG. Folk songs and stories, live and STEREO. Presented by Izzy and his friends.

4:00 MISCELLANY.

4:30 OUT OF THE SLOUGH. Free form stuff with a homosexual cast to it; from the sintered brain of Charles Pitts.

6:30 NEWS. (5-21)

7:00 NEWS AND VIEWS FOR CAR OWNERS. Sam Julty, Autoscribe, produces his automotive column of the air. Comments, views and observations on the news from the world of cars.

7:30 PALANTE. The Young Lords present and interpret news and community news. Independently produced. (5-22)

8:00 GRASS ROOTS OF MUSIC. Produced by Tom Whitmore. Three weeks out of four, Bill Vernon will play bluegrass recordings old and new; on the fourth week, Frank Mare will present an hour of the best in old time country music. (5-22)

9:00 **THE PLOUGH AND THE STARS.** See Highlights above.

11:00 UMOJA (UNITY).
- 11:00 Circle of Health. A family circle dedicated to liberating the minds, bodies and souls of African Americans who are prisoners of a racist health care delivery system, predicated on profiteering, protectivism and perpetuation of racism. Moderated by Saidi Hekimu.
- 11:30 Esther Rand Housing Note Book. Esther Rand of the Metropolitan Council on Housing with the latest housing news.

12:00 THE OUTSIDE. With Steve Post.

Sunday 5/21

HIGHLIGHTS

12:30 P.M. A GEOPOLITICAL ANALYSIS OF NIXON'S NEW CHINA POLICY. O. Edmund Clubb, who spent 20 years in Asia, 18 of them in China, was the last American Consul General in Peking. He was one of the "old China hands". Mr. Clubb talks with Larry Josephson about the geopolitical implications of Nixon's China trip on Russia, Japan, India, the United States, and what's left of Pakistan. Rebroadcast from IN THE BEGINNING of March 24, 1972. Produced by Larry Josephson.

2:30 P.M. PROMISE HER ANYTHING . . . and give her whatever she'll buy. A look at the cosmetics industry and its influences on the physiology and psyche of the consumer. Recommended for those who think the Befores generally look better than the Afters. Produced by Caryl Ratner.

3:15 P.M. NEW WOMEN'S WRITING. A new series on women's writing beginning with the work of Lydia Ressner. Produced by Ann Snitow.

4:00 P.M. AN ORGAN RECITAL BY CALVIN HAMPTON. Live, from Calvary Episcopal Church, 21st Street and Park Avenue. This, month, Calvin will play a program of his own music for organ and other instruments. The concert is free and open to the public, and listeners are invited to be there in person. Produced in STEREO by the Music Dept.

7:30 PROGRAMS BY AND FOR YOUNG PEOPLE.
- 7:30 NEWS. (5-20)
  THERE'S NEVER ANYTHING TO DO. A program of announcements of events for kids, such as readings, plays, conferences, trips, etc. Send announcements to Karen Faatz.
- 8:00 POETRY AND SONGS BY AND FOR VIETNAMESE CHILDREN. A look into the much unexplored culture of the Vietnamese through records brought back from Vietnam by American visitors. Produced by Marc Spector.
- 8:30 THE BOB COHEN SHOW.
- 10:00 CANDY FROM STRANGERS. Jan Albert reads *The Little Prince*. Part 1.

11:00 IN THE SPIRIT. With Paul Gorman.

12:30 **A GEOPOLITICAL ANALYSIS OF NIXON'S NEW CHINA POLICY.** See Highlights above.

2:30 **PROMISE HER ANYTHING.** See Highlights above.

3:15 **NEW WOMEN'S WRITING.** See Highlights above.

3:45 MISCELLANY

4:00 **AN ORGAN RECITAL BY CALVIN HAMPTON.** See Highlights above.

5:00 NIGHT INTO DAY. Portions of Bob Fass' RADIO UNNAMEABLE, rebroadcast.

6:00 UP AGAINST THE WAILING WALL. Open Letter to the Goyim. With Rabbi A. Bruce Goldman. Independently produced. (5-22)

6:20 MISCELLANY.

6:30 NEWS. (5-22)

7:00 THE LAWRENCE STRIKE. A brief history of the general strike among the unorganized female textile workers of Lawrence, Massachusetts in 1912. Produced by Ann Snitow. (5-22)

7:30 EARTH VILLAGE: Sounds From Hokkaido — The Music of the Ainu. Tapes of the ceremonial songs and chants of the Ainu, an aboriginal tribe native to Hokkaido. Recorded in Lake Akan Village during the Ainu Marimo Festival in Japan. Produced by Louisa Sellars.

8:00 FOR THE ARTS. The Sunday evening arts magazine hosted by Milton Hoffman. (5-24)

10:00 AT THE RISK. . . music of and by Phil GLASS and Elaine RODIGUE.

12:00 THE OUTSIDE. With Steve Post.

Monday 5/22

HIGHLIGHTS

2:15 P.M. CONCENTUS MUSICUS OF VIENNA. In concert. This is probably the world's finest baroque chamber ensemble, known for their use of original 17th and 18th century instruments in performance. They play: MARAIS *Suite from "Alcyone", 1705*; COUPERIN *L'Apotheose de Lulli, 1725*; LECLAIR *Violin Concerto in C major, Op. VII/3*; BODIN DE BOISMORTIER *Sonade a quattre parties in E minor*; RAMEAU *Suite from "Hippolyte et Aricie"*. The group is directed by cellist Nikolaus Harnoncourt. Recorded at the Roslyn Music Group on October 20, and produced by the Music Dept. STEREO.

4:15 P.M. URBAN EDUCATION. A new weekly series that will examine, from a supportive but critical point of view, significant problems, programs and personalities operating within the systems of public elementary, secondary and higher education in New York City. Today, The Positive Alternatives Program at I.S. 10. Teachers and students in a Chelsea intermediate school describe the reasons for the success of their drug prevention program. Produced by Sandra Adickes.

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-21)
9:30 MORNING MUSIC. Recorded music, mostly classical, presented live by Frank Coffee.
11:30 CORPORATE POWER IN AMERICA. (4-26)
Noon UP AGAINST THE WAILING WALL. (5-21)
12:20 GRASS ROOTS OF MUSIC. (5-20)
1:15 PALANTE. (5-20)
1:45 JAMES B. NORTH. The vagabond poet, who one day came to WBAI after years of cross country travelling, was recently killed in a hit-and-run accident while on the road.
2:15 CONCENTUS MUSICUS OF VIENNA. See Highlights above.
4:15 URBAN EDUCATION. See Highlights above.
4:45 THE LAWRENCE STRIKE.(5-21)
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*, published by Random House in 1947 and winner of the National Book Award in 1952. Produced by Ruth Rotko and Toni Konitz.
5:45 COMMUNITY BULLETIN BOARD.
5:55 PERSPECTIVE. With Victor Perlo. East-West Trade and Nixon's visit to Moscow. Will there be hundreds of thousands of new jobs? Will Nixon's trip help disarmament, shift of budget priorities in the U.S.? Independently produced. (5-25)
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-23)
7:15 WASHINGTON REPORT. Comprehensive report from Danice Bordett and Bob Kuttner. (5-23)
7:45 ENVIRONMENT. Glenn Paulson, environmental scientist, discusses the background and implications of a few current news items of ecological importance. Independently produced. (5-25)
8:00 PUBLIC AFFAIRS MAGAZINE. Sixty minutes set aside for late breaking news, recent interviews and speeches, and unscheduled material from the Public Affairs Dept. and independent producers. (5-23)
9:00 FISCHER-DIESKAU SINGS SCHUBERT LIEDER. Songs of Schubert, as sung by Dietrich Fischer-Dieskau, accompanied by Gerald Moore and wry comments by Frank Coffee.
10:15 GAY PRIDE. Discussions about the oppression of homosexuals, gay liberation, and gay culture. Produced by Pete Wilson and Gary Fried. (5-23)
10:45 WAR SUMMARY. By Paul Fischer.
11:00 NEW FORMS. A series of series within a series dealing primarily but not exclusively with the visual arts. The series is produced by Ruth Rotko and Terry Shtob.
11:30 EARTH MUSIC. Out of the mud, music. Frogs: soprano to bass, peeper to bullfrog.
12:00 ELECTRA REWIRED. Presented live by Liza Cowan. (Portions 5-25)

Tuesday 5/23

HIGHLIGHTS

3:30 P.M. FREE MUSIC STORE: Country Fiddlin'! Five (count em!) fiddlers, not to mention banjos, mandolins, guitars, basses, pipes, spoons and a snare drum! Under the watchful eye of emcee Tom Whitmore the Free Store presented the Apple Country String Band, Kenny Kosek and friends, Alan Block and Bill Garbus, and last but hardly least, the incredible Tex Logan. Shit kickin', foot stompin' music too good to miss. Produced by Tom Whitmore and the Music Dept., and recorded in STEREO by the Musidept. during the live broadcast, March 11, 1972.

8:30 P.M. STREET GANGS. David Selvin investigates the question: Do street gangs in New York have a new focus and direction? (5-26)

9:15 P.M. FREE MUSIC STORE: An evening of solo piano music performed by pianist Georgy Sebok at WBAI's Free Music Store on Wednesday March 22, 1972. The program included J. S. Bach's *French Suite in B minor*, W. A. Mozart's *Sonata in D major*, Franz Liszts' *Third Mephisto Waltz*, and Brahms' *Variations and Fugue on a theme by Handel*. The program was produced by the Music Department of WBAI and recorded in Stereo by David Rapkin on Wednesday March 22, 1972.

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-22)
MORNING MUSIC. Recorded music, mostly classical, presented live by Andre Lubart.
11:30 WASHINGTON REPORT. (5-22)
Noon LUNCHPAIL. With Paul Gorman.
2:00 GAY PRIDE. (5-22)
2:30 PUBLIC AFFAIRS MAGAZINE. (5-22)
3:30 FREE MUSIC STORE: Country Fiddlin'! See Highlights above.
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5/22 for details.
5:45 BOTH SIDES OF THE BARS. Independently produced by David Rothenberg and the Fortune Society. (4-5)
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-24)
7:15 EXTRA. Timely reportage. (5-24)
7:45 COMMUNITY RADIO. Diverse viewpoints from groups and individuals not usually represented through the media. Independently produced by Sydney Johnson.
8:00 WHATEVER BECAME OF . . . MISS AMERICA OF 1948? The teenage farm girl from Minnesota who played a glockenspiel to win the coveted crown tells Richard Lamparski what it was like. Her name is BeBe Shopp and her father was Director of Health and Education for Cream of Wheat. The program ends fittingly with the Hartz Mountain Canaries singing the Blue Danube Waltz.
8:30 STREET GANGS. See Highlights above.
9:15 FREE MUSIC STORE. Georgy Sebok at the Free Music Store. See Highlights above.
10:15 DIARY. A series utilizing women's diaries and letters, intended to supplement the meager historical materials on women's roles as pioneers, labor leaders, etc. Presently produced by Nanette Rainone.
10:45 WAR SUMMARY. By Paul Fischer.
11:00 UNDER THE GUN. Our all-new cabaret of the airwaves; radio vaudeville with Larry Block, Laura Esterman, Lou Galterio and others. Produced by John Lithgow. (5-29)
11:30 SOUND POETRY. A continuation of the series on Sound Poetry, an avant garde movement exploring the texture and phenomenon of sound. Produced by Ruth Rotko.
12:00 RADIO UNNAMEABLE. With Bob Fass.

Wednesday 5/24

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-23)
MORNING MUSIC. Recorded music, mostly classical, presented live by Eric Salzman.
11:30 EXTRA. (5-23)
Noon T.C.B. (Taking Care of Business).With Deloris Costello.
2:00 BOTH SIDES OF THE BARS. (5-23)
2:30 EARTH VILLAGE. (5-21)
3:00 FOR THE ARTS. Portions of the Sunday evening Arts Magazine, rebroadcast. (5-21)
4:00 MISCELLANY.
4:15 MBARI MBAYO. African music, calypso, and news from Africa, presented by Godwin G. Oyewole.
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5/22 for details.
5:45 COMMUNITY BULLETIN BOARD.
5:55 THE FREE VOICE OF GREECE. Produced by Adamantia Pollis with George Frangos and Peter Schwab. Independently produced.
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-25)
7:15 JUDICIAL REVIEW. Civil Liberties Lawyer Lawrence Speiser discusses current Supreme Court cases and controversies. His guests are drawn from the pool of regular Supreme Court correspondents for the *Washington Post, New York Times*, etc. (5-29)
7:45 REPORT TO THE LISTENER. With Station Manager, Ed Goodman taking live phone calls from listeners. (5/25)
8:15 PUBLIC AFFAIRS MAGAZINE. Ninety minutes set aside for late breaking news, recent interviews and speeches, and unscheduled material from the Public Affairs Dept. and independent producers. Produced by the PA Dept. (5/25)
9:45 UBINGWA WA AFRIKA. Music as Social Comment. Records, and an interview with John Sturm Roberts, former music critic for *East African Standard*, who discusses Swahili lyrics as revealing urban woes, and his upcoming book on African music. Presented by Frank Owano.
10:15 POISONED ARTS. Waffle-Berry Production Comedy in Stereo. Charles and Emily Ann attend their high school reunion where Mr. Waburn faces disciplinary action for not having a hall pass. Special guests from Magic Cabbage. Starring Janet Coleman, David Dozer, Blanche Marker and Otis Maclay. Radio technique by Peter Zanger. (5-26)
10:45 WAR SUMMARY. By Paul Fischer.
11:00 PATTERNS IN JAZZ. Contemporary jazz commentary, from the 40's on. Presented in STEREO by Homi Mehta.
12:00 RADIO UNNAMEABLE. With Bob Fass.

Donald Noble during an interview with Bruce Soloway. INSIDE ATTICA: An Interview with Donald Noble. Tues., 5/30, 9:30 P.M. Photograph by Cinda Firestone.

Thursday 5/25

HIGHLIGHTS

8:15 P.M. AN EXPERIMENTAL ORAL HISTORY. Produced by David Gelber.
8:45 P.M. FREE MUSIC STORE: Jim Hall Trio. The second part of an evening of guitars (the first half featured classical guitarist Bill Mathews). This half featured jazz guitarist Jim Hall with Benny Aranov, piano and Ron Carter, bass. Produced and recorded in STEREO December 17, 1971 by the Music Department.
9:45 P.M. MOTHER'S DAY. A special program dedicated to mothers—will include music and poems by Adrienne Rich, Sylvia Plath, Robin Morgan, Erica Jong, and many others. (5-29)

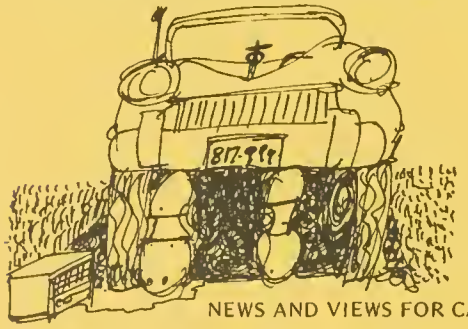
7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-24)
MORNING MUSIC. Recorded music, mostly classical, presented live by Maliki Oluwambe.
11:30 REPORT TO THE LISTENER. With live phone calls from listeners. (5-24)
Noon LUNCHPAIL. With Paul Gorman.
2:00 ENVIRONMENT. (5-22)
2:15 PERSPECTIVE. With Victor Perlo. (5-22)
2:30 PUBLIC AFFAIRS MAGAZINE.
4:00 ELECTRA REBROADCAST. Portions of the Monday evening program rebroadcast. (5-22)
5:00 MISCELLANY.
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5/22 for details.
5:45 FRIENDS OF HAITI: Echo and Liaison in America of the Haitian Opposition. A program prepared by Americans in collaboration with members of Rassemblement Democratique Haiten. Independently produced by Jill Ives.
6:00 CHINESE PRESS REVIEW. A different view of the world. A review of recent Chinese press reports on a variety of topics, independently produced by the New York Committee of Concerned Asian Scholars.
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-26)
7:15 EXTRA. Timely reportage. (5-26)
7:45 WOMANKIND. A weekly series of discussion and commentary from the feminist community. "She is feminine in a very rewarding sense, in that she makes no effort to be major." Of Marianne More, from *The Literary History of the United States*. Produced by Nanette Rainone.
8:15 AN EXPERIMENTAL ORAL HISTORY. See Highlights above.
8:45 FREE MUSIC STORE: The Jim Hall Trio. See Highlights above.
9:45 MOTHER'S DAY.See Highlights above.
10:15 *THREE WOMEN*. A Verse Play by Sylvia Plath. Originally written for the BBC, toward the end of the poet's life, *THREE WOMEN* explores all of Sylvia Plath's feelings towards pregnancy, childbirth and motherhood. This production by KPFA in Berkeley.
10:45 WAR SUMMARY. By Paul Fischer.
11:00 *THE AMERICAN NIGHTMARE*. A radio play on the State of the Nation and Future Prospects, produced by KPFA. Adapted from Sydney Slomich's book *The American Nightmare* portraying a microcosm of world history with side trips into demonology and mythology.
12:00 RADIO UNNAMEABLE. With Bob Fass.

Friday 5/26

HIGHLIGHTS

2:30 P.M. FREE MUSIC STORE: Brethren Crazed Man and the Wildlife Ensem. Instigator-of-madness Russ Tubbs who came to us last fall in the guise of Wildfield returned slightly altered, wrapped in the mysterious cloak of Bretheren Crazed Man. And he brought with him Cliff Carter on keyboards, the cello and bass of Roger Kimball (as well as Roger, himself), and a truly Abe Speller drumming. Originally broadcast live and in STEREO as produced by the Musidept. itself. Verily.

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-25)
MORNING MUSIC. Classical music, mostly recorded but sometimes live, presented by James Irsay.
11:30 WOMANKIND. (5-25)
12:00 MARION'S CAULDRON. A live series of occult information with Marion Weinstein.
12:30 MISCELLANY.
12:45 SIXTY-SIX DOLLARS A MINUTE. That's what it would have cost one woman to have her abortion done by a private doctor. Discussions with members of the Women's Health and Abortion Project and women who have had abortions. Produced by Liz Carver.
1:15 ART IN THE COMMUNITY. A series on local art programs in the New York area. Produced by Terry Shtob.
1:30 EXTRA. (5-25)
2:00 POISONED ARTS. (5-24)
2:30 FREE MUSIC STORE: Brethren Crazed Man and the Wildlife Ensem. See Highlights above.
5:00 MISCELLANY.
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5-22 for details.
5:45 COMMUNITY BULLETIN BOARD.
5:55 ENVIRONMENTAL OUTRAGES. Independently produced by Grace Jessen and Dick DeBartolo.
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-27)
7:15 CAPITOL NEWS SUMMARY. Roundup of the week's Washington dateline news. (5-27)
7:45 A SATIRICAL VIEW. With Marshall Efron and Barton Heyman. (5-30)
8:00 FOOD. The High Art of Dairy Restaurants. A trip with historian, Alan Block, through one of New York's oldest food traditions, the dairy restaurant. Produced by Carole Getzoff.
8:30 DATE-LINE COMMON SENSE: Political Pyramid. A step-by-step journey into where politics begin and end; an intensive investigation from the bottom up. A look at what kind of power is wielded from the basement. Interviews, discussions and commentary moderated by Agatha Graham. (5-27)
9:00 BLACK AWARENESS. The purpose of the series is to "enlighten, educate, inform and even outrage the listening public by exposing the myths and lies that this country has invented to justify its oppression of Afro-Americans". Produced by Deloris Costello.
10:45 WAR SUMMARY. By Paul Fischer.
11:00 GURU LEW FONGHOO, LIKE YOU'RE NOBODY. Series No. 2 with Lou Gallo.
12:00 RADIO UNNAMEABLE. With Bob Fass.



NEWS AND VIEWS FOR CAR OWNERS.

Saturday 5/27

HIGHLIGHTS

10:30 A.M. ACUPUNCTURE. Dr. Reuben Amber, the first American to receive a degree in Acupuncture and be received into the Chinese Acupuncture Society, is questioned by Richard Lamparski and Alice May, RN. Dr. Amber explains the difference between the superior and inferior acupuncturist, the reason that some acupuncturists in China have long fingernails, the Yin and Yang theories and the use of golden needles.
9:00 P.M. FREE MUSIC STORE: Oregon. You heard them on Lunchpail, you loved them on Free Jazz; here again is WBAI's favorite raga-jazz-et al group. Glenn Moore, bass, flute and piano; Collin Wallcott, sitar, tabla, clarinet, violin; Paul MacCandless, oboe, English horn and soprano sax; and Roger Towner, guitars and piano. Recorded in STEREO by David Rapkin and Tony Elitcher on February 9, 1972, and produced by the Music Department.

7:30 PROGRAMS BY AND FOR YOUNG PEOPLE.
7:30 NEWS. (5-26)
8:00 AND NOW A DIFFERENT INTERPRETATION . . . A program to follow the rebroadcast of the evening NEWS which will contain the news as viewed by young people of different backgrounds and ages.
8:15 THE DAYDREAMER. An adventure into the inner spaces, involving young people through methods of meditation, humor, music and drama. Hosted by Bob Cohen and Allan Corby.
9:00 THE RONNY WATKINS SHOW.
10:00 MISCELLANY.
10:30 ACUPUNCTURE. See Highlights above.
11:30 CAPITOL NEWS SUMMARY. (5-26)
Noon LUNCHPAIL. With Paul Gorman.
2:00 FREE JAZZ. Eclectic, maybe weird, but oh, so live! STEREO too. Produced by the Music Dept.
4:00 DATE-LINE COMMON SENSE. Political Pyramid moderated by Agatha Graham. (5-26)
4:30 OUT OF THE SLOUGH. Free form stuff with a homosexual cast to it; from the sintered brain of Charles Pitts.
6:30 NEWS. (5-28)
7:00 NEWS AND VIEWS FOR CAR OWNERS. Autoscribe Sam Julty talks about problems of mass transit.
7:30 PALANTE. The Young Lords present and interpret news and community news. Independently produced. (3-6)
8:00 GRASS ROOTS OF MUSIC. Produced by Tom Whitmore. Three weeks out of four, Bill Vernon will play bluegrass recordings old and new; on the fourth week, Frank Mare will present an hour of the best in old time country music. (4-2)
9:00 FREE MUSIC STORE: Oregon. See Highlights above.
11:00 UMOJA (UNITY).
11:00 Circle of Health. A family circle dedicated to liberating the minds, bodies and souls of African Americans who are prisoners of a racist health care delivery system, predicated on profiteering, protectivism and perpetuation of racism. Moderated by Saidi Hekimu.
11:30 Esther Rand Housing Notebook. Esther Rand of the Metropolitan Council on Housing with the latest housing news.
12:00 THE OUTSIDE. With Steve Post.

Illustration by Peter Kurinsky.

Sunday 5/28

HIGHLIGHTS

1:00 P.M. **FREE MUSIC STORE:** The Columbia University Collegium Musicum. Alex Blachly, director. A concert of medieval and renaissance music "In Praise of Women: Musical Tributes to Lovers, Virgins and Martyrs." In the first part of the program, motets, ballades and other shorts works by ANON., Wizlaw VON RUEGEN, Philippe de VITRY, Guillaume de MACHAUT, Jehan Simon d'HASPROYS, Marbriano de ORTO and Guillaume DUFAY. The second part of the concert is a *Mass for the Feast of St. Catherine of Siena*, with the common from Jacob OBRECHT's *Missa Maria Zart* and the proper from the Gregorian Chant. Produced and recorded March 19 by the Music Dept. STEREO.

3:00 P.M. **PLAYHOUSE: Short Plays By Sir Noel Coward.** A live production for radio, with music, of *Red Peppers* and other short Coward plays, produced and directed by John Lithgow.

7:30 PROGRAMS BY AND FOR YOUNG PEOPLE.
- 7:30 NEWS. (5-27)
- THERE'S NEVER ANYTHING TO DO. A program of announcements of events for kids, such as readings, plays, conferences, trips, etc. Send announcements to Karen Faatz, There's Never Anything to Do, WBAI, 359 East 62nd Street, N.Y., 10021.
- 8:00 HOW TERRIBLY STRANGE TO BE SEVENTY. A look at what it must be like to be old by people who are nowhere near being so, and by people who do face the problems, tensions, and enjoyment of age—the elderly. This program was produced by Jenny Levine and Marc Spector.
- 8:30 THE BOB COHEN SHOW.
- 10:00 CANDY FROM STRANGERS. With Jan Albert.

11:00 IN THE SPIRIT. With Paul Gorman.

12:30 AN INTERVIEW WITH A GARMENT WORKER. Bonnie Bellow and Eric Shtob talk with a dress operator in the ILGWU who has worked in the garment industry for over thirty years.

1:00 **FREE MUSIC STORE.** See Highlights above.

3:00 **PLAYHOUSE: Short Plays By Sir Noel Coward.** See Highlights above.

5:00 NIGHT INTO DAY. Portions of Bob Fass' RADIO UNNAMEABLE, rebroadcast.

6:00 UP AGAINST THE WAILING WALL. The politics and economics of Bar Mitzvah. With Rabbi A. Bruce Goldman. Independently produced. (5-29)

6:20 MISCELLANY.

6:30 NEWS. (5-29)

7:00 NORTH STAR. Produced by New York University black students.

7:30 BALKAN FOLK MUSIC. Music of Bulgaria, Rumania and Yugoslavia presented by Martin Koenig.

8:00 FOR THE ARTS. The Sunday evening Arts Magazine hosted by Milton Hoffman. (Portions 5-31)

10:00 AT THE RISK. . . or as we like it. From the Musidept. STEREO.

12:00 THE OUTSIDE. With Steve Post.

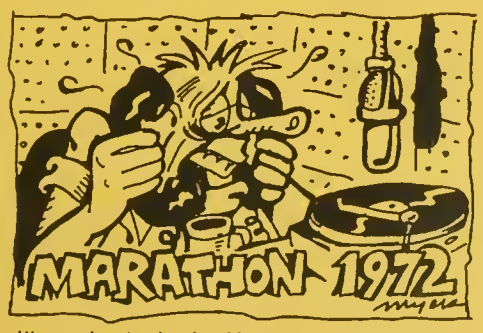


Illustration by Jordan Myers.

Monday 5/29

HIGHLIGHTS

2:15 P.M. **FREE MUSIC STORE:** The Cleveland String Quartet. Donald Wallerstein & Peter Salaff, violins; Martha Strongin Katz, viola; Paul Katz, cello. From a very exciting live broadcast March 25. SCHUBERT *Quartettesatz, Op. Posth.*; IVES *String Quartet No. 2*; SCHUBERT *Death and the Maiden, Op. Posth.* Produced and recorded in STEREO by the Music Dept.

4:15 P.M. **URBAN EDUCATION.** A new weekly series on education in New York. See 5-22 for details. Today, The Distar Reading Program. A critical examination of a highly structured, behavioristic reading program that is being used on a district wide basis in the Williamsburg-East New York section of Brooklyn. Produced by Sandra Adickes.

9:00 P.M. **ONDES MARTENOT.** Part 1. Arlette Sibon-Simonovich is probably the world's leading performer on this electronic musical instrument, the grandaddy of the synthesizers and still very much in use by contemporary composers. In the first two programs, she talks with Eric Salzman and we hear *3 Canons in Homage to Galileo* by the Catalan composer Jose-Maria Mestres-Quadreny and *Outremer* by Bernard Parmegiani recorded at WBAI in STEREO by David Rapkin.

8:00 MORNING MUSIC. Recorded music, mostly classical and presented live. Today, something special, In Memoriam.

9:00 NEWS. (5-28)
MORNING MUSIC: A Pointillistic Universe of Sonorous Sparks. The Music of IANNIS XENAKIS. Today is the 50th birthday of the Greek-born musical innovator and cosmic sound architect, whose use of mathematical techniques and computer computations to build his *structures sonores* has has alienated some and illumined others. Interviews, comments, sounds and musics (including *Concrete Ph III, Nuits, Pithoprakta*) collected and collaged by KPFK's Music Director David Cloud.

11:30 JUDICIAL REVIEW. (5-24)

12:00 UP AGAINST THE WAILING WALL. (5-28)

12:20 GRASS ROOTS OF MUSIC. (5-27)

1:15 PALANTE. (5-28)

1:45 MOTHER'S DAY. (5-25)

2:15 **FREE MUSIC STORE:** The Cleveland String Quartet. See Highlights above.

4:15 **URBAN EDUCATION.** See Highlights above.

4:45 UNDER THE GUN. (5-23)

5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5-22 for details.

5:45 COMMUNITY BULLETIN BOARD.

5:55 PERSPECTIVE. By constitutional lawyer, Conrad Lynn. (6-1)

6:15 MISCELLANY.

6:30 NEWS. With Paul Fischer. (5-30)

7:15 WASHINGTON REPORT. Comprehensive report from the Washington Bureau with Danice Bordett and Bob Kuttner. (5-30)

7:45 ENVIRONMENT. Glenn Paulson, environmental scientist discusses the background and implications of a few current news items of ecological importance. Independently produced. (6-1)

8:00 PUBLIC AFFAIRS MAGAZINE. Sixty minutes set aside for late breaking news, recent interviews, and speeches, and unscheduled material from the Public Affairs Dept. and independent producers. Produced by the P.A. Dept.

9:00 **ONDES MARTENOT.** Part 1. See Highlights above.

10:15 GAY PRIDE. Discussions about the oppression of homosexuals, gay liberation, and gay culture. Produced by Pete Wilson and Gary Fried. (5-30)

10:45 WAR SUMMARY. By Paul Fischer.

11:00 NEW FORMS. A series of series within a series dealing primarily but not exclusively with the visual arts. The series is produced by Ruth Rotko and Terry Shtob.

11:30 I.P.S. Inches per second. A regular program devoted to tape and electronic music. In STEREO, from the Musidept.

12:00 ELECTRA REWIRED. Presented live by Liza Cowan. (Portions 6-1)

Tuesday 5/30

HIGHLIGHTS

3:30 P.M. MOSTLY SPANISH MUSIC WITH BILL HOWLE. An introductory program to a proposed series which would explore all aspects of Spanish musical composition and performance. The selections on this program span seven centuries from the fourteenth to the twentieth. Bill Howle has been visiting Spain and collecting its music for over twenty years and has compiled an amazing collection which he is eager to share with all who will listen.

9:30 P.M. INSIDE ATTICA: An Interview with Donald Noble. One of a series of interviews with the alleged "leaders" of the Attica prison rebellion, produced inside the prison last February. Donald Noble, a soft-spoken ex-tailor from the Bronx, was one of the five men who signed the Attica inmates' manifesto of demands last summer. Without sweeping generalities, Noble recounts some of the smaller inanities of prison life, (you can have a blanket as long as it's not blue, for example, and you can buy uncooked food at the commissary but you can't have a stove). He also talks about last year's rebellion and its aftermath. Produced by Bruce Soloway.

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-29)
MORNING MUSIC. Recorded music, mostly classical, presented live by Dan Kavanaugh.
11:30 WASHINGTON REPORT. (5-29)
Noon LUNCHPAIL. With Paul Gorman.
2:00 GAY PRIDE. (5-29)
2:30 PUBLIC AFFAIRS MAGAZINE. (5-29)
3:30 MOSTLY SPANISH MUSIC WITH BILL HOWLE. See Highlights above.
5:00 A SATIRICAL VIEW. (5-26)
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5/22 for details.
5:45 BOTH SIDES OF THE BARS. Independently produced by David Rothenberg and the Fortune Society, with membership of ex-convicts. (5-31)
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-31)
7:15 EXTRA. Timely reportage. (5-31)
7:45 COMMUNITY RADIO. Diverse viewpoints from groups and individuals not usually represented through the media. Independently produced by Sydney Johnson.
8:00 WHATEVER BECAME OF . . . CAPTAIN VIDEO and THE VIDEO RANGER? Richard Lamparski brings Al Hodge and Don Hastings together again after all these years to relive the thrills of Nargola, The Festering Black Planet, Permes Lykos, Macro-Bolts and the Equations of Doom. Holy Hyperion, Guys, You can't miss this one!
8:30 CIVILIZATION AND ITS DISCONTENTS. A few months ago Joe Eger was offered the job of directing the San Diego Symphony. A day or two before the contracts were signed a rival conductor "revealed" Joe's "leftist" past and suddenly he found himself blacklisted. He talks with Eric Salzman about music and politics, his attempts to reconcile classical and pop and his ideas for taking music out of the concert halls and into the neighborhoods. Music as well as talk.
9:30 INSIDE ATTICA. See Highlights above.
10:15 DIARY. A series utilizing women's diaries and letters, intended to supplement the meager historical materials on women's roles as pioneers, labor leaders etc. Presently produced by Nanette Rainone.
10:45 WAR SUMMARY. By Paul Fischer.
11:00 THE RADIO. More exciting drama for the radio. Produced by Patrick Shea and Charles Potter. With technical direction by David Rapkin and musical direction by James Irsay. (6-5)
11:30 SOUND POETRY. Produced by Ruth Rotko.
12:00 RADIO UNNAMEABLE. With Bob Fass.

Wednesday 5/31

HIGHLIGHTS

7:15 P.M. WHAT'S A NICE GUY LIKE YOU DOING IN A PLACE LIKE THIS? Part.I: Do members of the House of Representatives take themselves too seriously? Two of the four hundred and thirty five Congressmen speak to that same issue. The Washington Bureau with Sam Steiger (R-Ariz.) and Bob Eckhardt (D-Tex.) Produced by Bob Kuttner and Danice Bordett.

8:15 P.M. WEDNESDAY. A magazine produced by the staff, edited and directed by Nanette Rainone. Program includes the following segments:
SEEING RED. The continuing series on Indian culture, produced by Suzan Shown.
FREE MUSIC STORE: Dave Bromberg and the Fabulous Torpedoes and Friends or, They Could Have Played All Night! Guitarist-songwriter-vocalist extraordinaire Dave Bromberg with Steven Berg, bass and vocals; Doris Abrams, vocals and guitar; "Blind" Eric "Flatpick" Francin, vocals and guitar; Jeff Gutchin, piano, vocals; Kenny Kosek, fiddle and vocals; Andy Statman, mandolin; and Gary Sun Luck, congas. Recorded in STEREO by David Rapkin and Tony Elitcher on March 3,-1972 and Produced by the Music Dept.
"GONE TO THE GRAVEYARDS EVERY ONE". Retreatism. Part one: Universities. The first in a series of programs looking into the question of the seeming retreat from the political into the personal. Produced by Margot Adler.

7:00 IN THE BEGINNING. With Larry Josephson.
9:00 NEWS. (5-30)
MORNING MUSIC. Recorded music, mostly classical, presented live by Barbara Oka.
11:30 EXTRA.
Noon T.C.B. (Taking Care of Business). Produced by Deloris Costello. T.C.B. will try to be part of the solution and not part of the problem. Listen and learn why.
2:00 BOTH SIDES OF THE BARS. (5-30)
2:30 BALKAN FOLK MUSIC. (5-28)
3:00 FOR THE ARTS. Portions of the Sunday evening Arts Magazine rebroadcast. (5-28)
4:00 MISCELLANY.
4:15 MBARI MBAYO. African music, calypso and news from Africa. Presented by Godwin G. Oyewole.
5:15 CONTINUED TOMORROW. A continued reading of Ralph Ellison's *Invisible Man*. See 5/22 for details.
5:45 COMMUNITY BULLETIN BOARD.
5:55 THE FREE VOICE OF GREECE. Produced by Adamantia Pollis with George Frangos and Peter Schwab. Independently produced.
6:15 MISCELLANY.
6:30 NEWS. With Paul Fischer. (5-1)
7:15 WHAT'S A NICE GUY LIKE YOU DOING IN A PLACE LIKE THIS? See Highlights above.
8:15 WEDNESDAY. See Highlights above.
10:45 WAR SUMMARY. By Paul Fischer.
11:00 SCORPION SWIFT. Music and musical ideas presented live by Rob Crocker.
12:00 RADIO UNNAMEABLE. With Bob Fass.

WHATEVER BECAME OF . . . CAPTAIN VIDEO And THE VIDEO RANGER? Tues., 5/30, 8:00 P.M. Photograph by Peter Schaeffer.

The D.A.'s Brief

Editor's note: *In preparation for this* Folio, *we called District Attorney Hogan's office and invited the District Attorney to submit in writing his point of view on this issue. His office declined. We then asked if the District Attorney's office had a policy regarding the subpoenaing of news material. We were advised by Executive Assistant District Attorney, David Worgan, that no such policy existed because the matter had never arisen as an issue prior to the recent* Village Voice *case and the current WBAI case. In the absense of a submitted document from the offices of the District Attorney, it is difficult to determine his position. As the appellant, WBAI has filed the substantive arguments thus far. The DA's office will not file for several weeks after our press deadline. However, we have excerpted, from the state's argument for a reversal of the writ of habeas corpus which freed Ed Goodman, portions which speak to the First Amendment question which is one of the constitutional issues that is joined here.*

THE FIRST AMENDMENT CREATES NO PRIVILEGE TO WITHHOLD MATERIAL ALREADY BROADCAST PUBLICLY WITH NO EXPECTATION OF CONFIDENTIALITY BY THE SPEAKER.

Clearly, the theory of the subpoena, foreshadowing an offer of proof at the trial of serious criminal charges now pending in the state Supreme Court arising from the riot in the Manhattan House of Detention in 1970, is that the tapes contained the voices of participants in the riot, speaking during the riot, "broadcast" over the air, and will be admissible against the speakers who identified themselves, or expressed no expectation of confidentiality, or against their accomplices (see petition, Exh. C, p.1; min. of argument March 5, 1972, p.33). Petitioner has presented no facts to show that the state is calling for production of confidential sources of news, or any other matters not publicly disclosed by broadcast all over the New York metropolitan area. He makes no claim that the individuals whose voices were recorded and broadcast spoke without knowledge and, indeed, intent that their words would be broadcast throughout New York City. Neither they nor petitioner had any reasonable expectation that if evidence of crime were disclosed, it would be unavailable to law enforcement authorities. It may be inferred from the state indictments, alleging kidnapping, unlawful imprisonment, riot, coercion, reckless endangerment and other offenses in violation of the New York Penal Law, that their crimes were committed in the presence of witnesses—the victims and other prisoners.

Not only did petitioner fail to establish confidentiality, but the state produced evidence that he expected no confidentiality. The broadcasting itself conclusively proved this, and, of course, the subpoena was limited to material "broadcast".

Caldwell v. *United States*, 434 F.2d 1081 (9th Cir. 1970), *cert. granted* 402 U.S. 942 (1971), on which petitioner relies heavily, is distinguishable. The Court of Appeals for the Ninth Circuit perceived a risk that Mr. Caldwell's carefully nurtured sources of information in the Black Panther Party, developed because of his informants' confidence in his discretion as to which matters to disclose in his articles, would be dried up if he were compelled to appear in a secret grand jury proceeding, even though he was covered by a protective order limiting the question to non-confidential matters, since his trusting sources of information would not know the questions and answers occurring behind closed doors. In the case at bar, so far as the record shows, the persons whose voices were broadcast placed no confidence in petitioner's discretion as a reporter, and assumed that whatever they said would be carried over the air. If a private citizen or police officer had heard the broadcast and was willing to testify, or if the District Attorney's office had been fortunate enough to make its own tape, petitioner would have no standing to enjoin such relevant testimony from a jury.

District Attorney Frank Hogan by David Levine.

Another Prison Voice

An Interview with Herbert X. Blyden

Herbert X. Blyden, one of the Tombs Seven, is now being held in the Bronx Men's House of Detention. He was interviewed by Deloris Costello, inside the prison, on March 27, 1972. The following interview is an excerpt from T.C.B. (Taking Care of Business) *of March 29, 1972.*

WBAI: Do you want to make a statement about the WBAI tapes and how you personally feel about them?

BLYDEN: In regard to the tapes from WBAI, I would think, in view of the fact that the tapes were aired, that the station doesn't have a legal leg to stand on, but I'm not a lawyer—although they call me the jail-house lawyer. But when we consider the fact that no one really knows what happened on the eleventh floor of the Tombs, in making those telephone calls, they would have to withhold those tapes. Other than that, it would be tremendously prejudicing to the trial of the Tombs Seven.

WBAI: How do you feel in general about the position that the station has taken, because it goes beyond the Tombs Seven. It starts at that, but it goes beyond that. A lot of people called in, you see, and that's another thing . . . alot of people calling in expressing their opinions about what's happening. In other words, how do you feel about the basis of media people being forced to cooperate with investigative bodies?

BLYDEN: All I can say is that if WBAI is forced to turn over those tapes, it's going to be the Pandora's Box, even though 1984 is here now. And I don't mean just for the listeners of the station. I'm talking about in general. People of these institutions, or even people out on the street, aren't going to be giving up any information concerning anything that might be to the detriment of someone else and is going to suppress their information. The people are not going to really know what's happening because they're going to say, 'Well, if I'm going to be prosecuted for something that I'm telling you in confidence,'. . . it's going to be the same thing like the patient that goes to the doctor—the psychiatrist—and the D.A. will come in and say, 'Well, wait a minute. While he was under sedation, what'd he say? I want to know because I'm taking him to trial.' And then the doctor gives it up. This isn't right and it's going to be the same thing.

WBAI: Well, that's happening now because the A.M.A. has already stated that the doctor should cooperate with any F.B.I. agents.

BLYDEN: Well, all I can say in looking at it from the inmate's point of view, if that is the case then it's time, high time, for the probation officers and the parole officers to start letting the inmates see the information that they're going to be spending the rest of their lives in prison on. Because the probation officer presents his facts—one man that doesn't know you from Adam—to the judge who sentences you, and the parole officer presents his facts to the parole board, and they determine whether or not you should go out on the street or go back in. So you see the whole system of criminal justice needs to be overhauled. The police officer arrests you, locks you up, and he's through with you. The correction officer holds you in here and all he wants to do is take you to court and house you and count you and that's it. He says, 'I don't want to have anything else to do with your case'. The D.A. prosecutes you and says he doesn't have anything more to do with you. The judge sends you upstate for life and that's it. Next man. This is the way they do it. This is the tread mill, and we're the ones on that tread mill running fast trying to keep up and we get tired of running, man.

WBAI: Do you think that the media helps inmates or do you think it makes it tougher when they expose what's going on?

BLYDEN: I don't know that the media is exposing what's happening. The media is exposing what a few liberal spokesmen want to air. Like we have alot of people that would say, yea, I'm familiar with the situation in this institution, and then you ask them what is your basis for your familiarity and they say, well, I spoke to a few of the former inmates and you know even that is cloaked. He doesn't even tell you who the former inmates are, and it leaves so much to the imagination and . . .'What is this inmate doing presently?' And you know, he can't tell you. He's probably on his payroll or naturally he's going to tell him what he'd like to hear. And they get all these liberal spokesmen for these institutions—much as you have liberal spokesmen for Willowbrooks, and look what's happening to those poor unfortunate kids over there.

WBAI: Now, I'm talking to you and you're giving me an interview and I'm going back and I'm going to play that. Now the powers that be, if they hear this and they don't like what they hear, will that make it rougher on you or not . . . or will it all let up?

BLYDEN: All I can say is, if I were to worry about that at this stage, I wouldn't be giving the interview. It's gotten to the stage where we say what we must, not what we want to.

Photograph by Jim Demetropoulos.

A Letter To Ed Goodman

Dear Ed Goodman:

WBAI's resistance to the District Attorney's demand that it turn over the tapes of its House of Correction riot coverage may or may not have a firm legal basis. In any case, your posture seems to me to stand on the highest moral plane than has so far been reached in the quarrel over the assumption of law officers that a journalist's notes are theirs to use as they please.

Section 79-h of the Civil Rights Law of New York grants the reporter, I notice, immunity from citation for contempt "for refusing or failing to disclose any news or the source of any news coming into his possession in the course of gathering news." The essential argument for this statute, as advanced by the Governor, is that threats of contempt charges "for failing to disclose (the reporter's) information and its sources can significantly reduce his ability to gain vital information." The law is then a legislative affirmation of the "public's right to know and the First Amendment rights of all *legitimate* newspapermen, etc."

The adjective "legitimate", I take to denote the existence of a franchised, tolerated, and therefore, special class, which deserves to be protected, in the transactions of its trade; the legislature, in part at least, was asserting a property right—precious, of course—but hardly as much so as the right which you are advancing on behalf of unlicensed persons at so much inconvenience to yourself.

No one, after all, could possibly be damaged by your surrendering the tapes except those detainees whose protest you have recorded. It is their First Amendment rights rather than your own that you have chosen to fight for. Essentially, of course, prisoners have no First Amendment rights, any speech of theirs may be considered as evidence of a criminal conspiracy. If it is merely offensive, it is subject to punishment—unappealable—at the administrative discretion of the Department of Corrections. If it is spoken against the clamor of a prison insurrection, it can be made matter for a District Attorney and a Grand Jury; any speech in such a context by a man whose ordinary civil rights are considered forfeit by reason of his condition can lead to his indictment.

The nature of prison authority is such that it is not too much to say that a prisoner who wrote a journalist to complain about the food might make himself punishable for incitement. The journalist, of course, would be protected by statute from identifying the complainant; but it is the journalist and not the prisoner who enjoys this protection. The First Amendment does not exist for an inmate of a correctional institution, and, curiously, our right of silence is more sacred than his right to speak.

I remember your Tombs broadcasts, although I have not heard them lately. All that I recall from them were expressions of indignation of the sort that the Constitution sustains for every citizen except the particular class of these speakers. The only purpose of the District Attorney's demand would be to assist the assemblage of voiceprints that might identify sources of speech that would be entirely legal on any other lips but can be made criminal on these.

For you to comply would be for you to assist in the further deprivation of liberties that ought not to be denied to any citizen, and are being systematically denied to our prison inmates. You would indeed be complicit in the policy of a state which grants liberty as a special privilege to one class, our own, and then denies it to these prisoners. You would be accepting a distinction that affords you comfort and denies the barest amenities to others. As it is, you are standing up for something more important than yourself. We need the First Amendment for our business; these prisoners need it for life and hope itself.

Fraternally,
Murray Kempton

Murray Kempton is a CBS Commentator and free-lance journalist whose book on the Black Panthers will be published this fall.

'Phonecasts' and the Right

By Paul Gorman and Nanette Rainone

Much of the uniqueness of this case arises from the uniqueness of WBAI. Since the Tombs tapes were subpoenaed, our defense has rested on freedom of the press, newspeople's privilege, the inviolability of news sources and so on. We *are*, in fact, a news organization. We have confidence in that defense, and believe it sufficient justification for our action.

At the same time, it must be said that BAI is not *just* a news organization, reporting other people's activities. We are, and have been for some time, a new form of neighborhood—not just an institution supported *by* the community, but the community *itself*, the people in microcosm. By combining the economic model of listener-support with the electronic mode of the 'Phonecast', our community has created for itself an entirely new forum for public dialogue, an electronic Town Hall permanently available to the people for their own purposes. So when women are discussing women's issues on the air, we are not reporting an event, we *are* an event—another meeting of the community thru a 'Phonecast'. When teachers, parents, and students are discussing the school strike; when members of the Forest Hills community discuss living with low-income housing; when war resisters discuss war resistance; when junkies discuss junk; when homosexuals discuss homosexuality; and when prisoners and jailors discuss jail—we are not just a news organization; there is no media-tion, no out-takes. We are a publicly-financed public instrument for public discourse. We are, in effect, the streets.

> "Wherever the title of street and parks may rest, they have immemorially been held in trust for the use of the public and time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has from ancient times been a part of the privileges, immunities, rights, and liberties of citizens". (Supreme Court Justice Roberts, 307 U.S. at 515 (1937))

The challenge of this subpoena, then, is really a challenge to the freedom of public assembly,from which more basic freedom the rights of the press actually derive. The object of repression, then, is the people's right to discuss their lives among themselves without fear of constant state surveillance.

That fear, it should be said, has *already* been expressed by members of our community calling in over the air. The subpoena has *already* chilled free speech at BAI, as if we now have to say "BAI you're on the air, anything you say may be taken down and used as evidence against you". Nor is this an isolated incident in an historical vacuum. For the last five years, anyway, public meetings have repeatedly been monitored, taped, and filmed by law enforcement officials. The right of assembly and free speech have been under concentrated attack in this society for some time now. In fact, the growing importance and use of the 'Phonecast' can be seen as a reaction to that attack. If the people cannot meet freely in one place, they must look for another, someplace more protected, more anonymous. The problem is that the same technology which invented the 'Phonecast' has devised the Voiceprint, admissable as evidence in Court, to limit its free use by the people.

The atmosphere of this case would be somewhat different, then, if the government had shown long-term sympathy with the need to devise new forms for public dialogue in a mass technological society. A truly democratic society would welcome the evolution of such forms. It would support them, promote them, protect them. It would be sensitive to the implications of government interference, and would resist any temptation to use such forms as an extension of law enforcement activities.

We wish all this were better appreciated by some of our colleagues in the press. Many have supported us on the basis of newspeople's privilege; and that support has meant a great deal to us, given our isolation in the past. But the media in this country, particularly the electronic media, have never really been instruments for public dialogue. At best, they may report news of the people to the people. At worst, in commercial broadcasting, they exist to manipulate people. But they never become, as it were, the people themselves, in common assembly. They never even tried to be.

Once broadcasting became a commercial enterprise and therefore adopted the structure of the National Network, it became absurd even to think about community media. But that could change. Some officials in this country are trying to talk about something called "community control". National commercial networks are not all that popular as critics from Nicholas Johnson to Spiro Agnew have discovered. Technology isn't stopping, and the development of cable television, for one example, makes these issues even more relevant for the future.

So what is at stake in this case is really whether the State (and secondarily the established media) welcomes or fears the evolution of new forms of public communication. That is why the concern many of our colleagues feel about what they call the 'legalities' of our case may be somewhat misplaced and can be resolved. We happen

# of Public Assembly

to believe that the District Attorney has no right to subpoena these tapes. We are willing to fight that in court. But even if he did have that right, which we deny, he would still have the choice of whether to exercise it or not. We would still be able to see the uniqueness of BAI, its 'Phonecasts', its service to the community, and its serious continuing attempt to devise new ways for the people to meet and talk. And he would still be able to see the clear chilling effect of his subpoena on a community trying to discuss controversial matters.

But it must be said that this District Attorney is not interested in any of that. He's interested in putting people in jail, and by his bail practices keeping them there as long as possible. The same DA that imprisoned Ed Goodman, prevented the publication of Edmund Wilson's *Memoirs of Hecate County* on grounds of obscenity, prosecuted Lenny Bruce virtually to the grave, kept the Harlem Four in prison for eight years without conviction for any crime, and has encouraged the use of exorbitant bail to keep political prisoners in jail. This too is part of the larger environment of our case. The recent administration of justice in this country, and state, and city has been a travesty of our traditions. In case after case, trial after trial, law enforcement officials have acted as if the Bill of Rights didn't exist. They are doing that to us now—and we intend to resist.

Finally, all this began in the prisons. It began with our broadcasting the voices of prisoners pointing out conditions which *everyone*, including guards—whose voices we also broadcast—acknowledged as barbaric and unacceptable. These are the voices of the people, in this case the kind of invisible people BAI has always felt a special responsibility to serve. Nothing is going to change that, as long as we are on the air.

Journalists' Support

In a brief period of forty-eight hours, volunteers from WBAI were called upon to collect signatures from journalists and news editors on an Amicus Curiae (Friend of the Court) brief submitted in support of Ed Goodman's right to remain free while the issues of the case were adjudicated. In that short time, over 575 such journalists agreed to sign. So far as we know, this is the first such action taken collectively by New York City journalists. The signees represent a cross-section of new institutions. Reporters from every major paper and television station are among their number. For an institution that has, in the past, experienced some isolation from its colleagues, the initiative we were able to take, and the response to it marks a new level of respect and influence in the community. Some of those who signed the brief are:

Gabe Pressman - Reporter, NBC
Eleanor Fischer - Reporter, Canadian Broadcasting Corp.
George Flowers - Newsman, WWRL
Arthur Alpert - News Director, WRVR
Peter Arnett - Special Correspondent, Associated Press
Jimmy Breslin - Author, Free-Lance Journalist
Earl Caldwell - National Correspondent, *New York Times*
Fred Darwin - Commentator, WTFM
Joan Downs - Assistant Editor, *Life*
Fred Feretti - Reporter, *New York Times*
James L. Greenfield - Foreign Editor, *New York Times*
Roger Grimsby - Anchorman, Eyewitness News, WABC-TV
Peter Gwynne - Associate Editor, *Newsweek*
Pete Hamill - Columnist, *New York Post*
Nat Hentoff - Journalist, *Village Voice*
Carey McWilliams - Editor-In-Chief, *The Nation*
Stephen A. Glauber - Manager of Special Projects, WNET
Robert Goldfarb - Director, Program Development, WCBS
A. M. Rosenthal - Managing Editor, *New York Times*
Ila Stanger - News Editor, *Harper's Bazaar*
Paul Cleveland - News Director, WOR-TV
William A. Woods - Associate Professor, Columbia School of Journalism, Graduate Division
Max Lerner - Columnist, *New York Post* and *Los Angeles Times* Syndicate
Sandie North - Writer, *Ladies' Home Journal*
Bob O'Brien - Producer, Ten O'Clock News, WNEW-TV
David E. Scherman - Senior Editor, *Life*
Sidney Gruson - Vice President, *New York Times*
Les Brown - TV Radio Editor, *Variety*
Ward Chamberlain - Executive Vice President, WNET
Norman Cousins - Editor, *World Review*
James Day - President, Eastern Broadcasting Corp.
Barry Farber - Announcer, WOR-AM
John Jay Iselin - General Manager, WNET
Fern McBride - Producer, Free Time, Channel 13
David Murray - National Affairs Commentator, *Chicago Sun-Times*
Joseph Morganstern - Journalist, *Newsweek*
Jack Nessel - Managing Editor, *New York Magazine*
Martin Nolan - Washington Bureau Chief, *Boston Globe*
Gerard Piel - Publisher, *Scientific American*
Gloria Steinem - Editor, *Ms.*

The Constitutional Issues

by Jonathan A. Weiss

Jonathan A. Weiss is an attorney and is currently Director of Legal Services for the Elderly Poor.

This article will hopefully serve to inform the listeners of WBAI as to the various factors and constitutional issues present in the proceedings now under appeal against Edwin Goodman for refusing to give the District Attorney materials requested under a subpoena.

This case, as it unfolds, may very well illustrate the conservative nature of the courts and how, in fact, they will reach for facts to avoid meeting crucial constitutional questions or effectuating the protections which citizens should enjoy under the United States Constitution. This case may be construed by the Courts depending upon how they find facts, no matter how attenuated their real basis is, as one of three types of cases:

1) The subpoena, as issued, seemed broad and searching for WBAI's private files. The subpoena could have been read as an expedition into the confidential files of WBAI's programming which were the bases of broadcasts and sometimes utilized for broadcasts; 2) Since nobody besides WBAI has received individual tapes of the broadcasts concerning the uprisings in the Tombs, the subpoena could be seen as asking for a broadcast, which was made public once over the air waves but never again; 3) Since there was a pronouncement, at one point, that tapes could be made available for sale of actual broadcasts and the District Attorney had accordingly requested such tapes, the case could be construed as WBAI saying we will give tapes of our broadcasts to whom we please and no one else.

There are a number of constitutional principles which apply across this range of factual interpretations. They include the following: 1) the constitutional right of freedom of association. The Constitution appears to defend one's right to choose with whom one associates and with whom one communicates. Surely, an individual can choose to give personal matters to a friend or someone they believe should have the information but not someone they don't care to deal with. The countervailing argument is, of course, the right of the state to investigate crimes and the duty of the citizen to aid in the prosecution and suppression of crimes. There are specific statutes making it illegal to conceal evidence of a crime and the subpoena powers then construed broadly. Secondly, there is the doctrine that has grown up called, "the chilling effect upon freedom." This doctrine goes that when the state does something that is otherwise harmless but operates, in fact, to inhibit people from freedoms of speech or association, it should be prevented from doing that inhibiting act. Here, the argument is that to compel newscasters to be part of a chain of prosecution is to chill their freedom of expression and prevent future research and freedom of association. Thirdly, there are many cases which have held that people who disseminate ideas have the right to remain anonymous. The United States Supreme Court held just that in one case that the authors of anonymous handbills on the street protesting certain hiring practices had a right to remain anonymous, harking back to the earlier days of the American Revolution when the speech could only be incendiary because the authors were unknown. Fourth, there is the doctrine that one cannot condition an exercise of a constitutional right or the pursuit of an occupation under surrender of constitutional rights. Here, in order to be a broadcaster and express one's ideas and gather one's information, one has to forfeit his right to keep communications from others confidential. Fifth, there is finally the doctrine of limited powers: that the state only has the right to have certain matters or acts in certain ways when the Constitution grants the possibility of statutes giving it such. The question then remains, what right does the state have to broadcasts or work materials? The answer, of course, normally would be statutes and the general police power to pursue crime. But, the question remains, however, where, when such power invades some specifically defined realism, what specific constitutional powers allow this invasion under statutory permission?

The third and fourth constitutional arguments do not appear to have as much compulsion for, depending on the facts, construed as meaning that, all mankind save the District Attorney has access to those past broadcasts. The other three arguments appear to have some validity no matter what the facts are except that the government will probably argue that those constitutional privileges were waived when the material was offered for sale or was previously heard on the air waves. In any event, it is also important to note that there is a specific statute giving journalists exemption from subpoena powers in order to protect the confidentiality of their source—this statute may come into major play in this case. In effect, what the courts will do is to deal with the statute, examine which factual possibilities make their conclusion easier and then attempt to deal with some or all of the above Constitutional issues.

Photograph by Jim Demetropoulos.

LETTERS

March 4, 1972

Brother Ed,

When I saw what happened to you for standing up for what is your right and having your freedom taken for informing the People of facts which the People have every right to know, I had to write you my sincere thanks for being strong and Right On.

All of this is being done by a sick and very hopelessly out of date group of fools who can not relate to the People any more, they are lost on an ego trip which has proven their downfall. All that they've done is prove us to be even more right than we knew we were. As you sit within the confines of this Babylon which is falling you can be sure your eyes are not fooling you. Yes it is worse over here in the Tombs but just the thought that men and women must spend years within any confines by the wish of a group who has nothing but the power to tell someone else to lock you up and take your life if necessary, such should send waves of fear through the veins of the People. When will they realize that as long as what happens to you and every Political Prisoner can happen to them any hour. We will die before we stop struggling to awaken the People. War has been fought to insure freedom, under the table a few have been making deals, do the same thing and it's my wish to let you know. You've my complete Revolutionary Support. As I sit here writing these few lines I can't help but think how sick this system really is. Your family is suffering because you inform the People of facts and they must do without you. I wish it were possible to make it known more to the People. Because we have opened their back room and they can't lock the door again, they are trying to blow up the house thinking they can save the room. Why can't the People see what they are trying to do? Tell me Bro Ed, must our children live under this form of oppression, must their lives be taken at the wish of those who in no way relate to the People they've forced their control on? Fuck that shit! I won't let emotions rule and I realize its our struggle and must be directed with clear thoughts on every level. So its safe to say in a cool way, before they blow up the house trying to save the room, let's pick the lock and destroy its contents.

The sun is bright in the morning for those who can see. Let's open the Peoples eyes. Stay strong and remember between you and I, you've got a lot of heart. All Power to the People.

Yours in the struggle
Brother Stanley King
Tombs - 7

3/29/72

We strongly support you in your fight for free speech and the maintenance of the independence of news reporting. It is no accident that when the government cannot stifle voices of dissent they turn to suppressing those who put the dissent on the airwaves. Call on us for any assistance we can give.

George Vickers for the Executive Committee Peoples Coalition for Peace and Justice, Room 527.

3/11/72

Dear Mr. Goodman,

While I vigorously support your battle to protect the First Amendment in withholding tape recordings from the District Attorney's office, I have some suggestions on what to do if your appeal to the courts fails.

1) If you must give up the tapes on a Monday morning you can make sure that Steve Post returns from a brief vacation the night before. Perhaps in his confusion he can accidentally use the tapes for an air-check of his program.

2) If you have to bring the tapes to the D.A. on a weekday afternoon you can make sure that Larry Josephson does not get enough sleep the previous night. Since he will be in a bad mood when he gets to the studio that morning, he can dump the tapes in the garbage by mistake.

3) If you have to surrender the tapes on Tuesday morning, a group of women can join Liza Cowan on her Monday night show. Since what they have to say will be far more important than anything on the tapes, they can record over the tapes.

4) If you must give up the tapes on a Wednesday, Thursday or Friday morning, Bob Fass can have some live music on his program the previous night. Since he usually has good music, I am sure he will want to record it for Nancy Allen to use on Night Into Day the next weekend. Nancy can always explain that she cannot present her program since Frank Hogan has the tape. He might hear some good music for a change.

5) If you are faced with an emergency order to surrender the tapes on a weekend, Jan Albert can have some children help her produce her "Programs for Young People". They will probably be bright children and I doubt if they will have to be told how to record over a tape.

6) If all else fails, while you are carrying the tapes to the D.A.'s office you can pass by one of the numerous construction sites on the way downtown and walk under an electromagnet.

Very truly yours,
Gary Makway

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